

**ORDINANCE NO. O-2021-106**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, PROVIDING FOR THE VOLUNTARY ANNEXATION OF APPROXIMATELY 7.12 ACRES OF LAND LYING ADJACENT TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF TYLER LOCATED EAST OF THE INTERSECTION OF HIDDEN HOLLOW LANE AND OLD NOONDAY ROAD; AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE BOUNDARY OF THE CITY COUNCIL DISTRICT #2; AUTHORIZING THE CITY MANAGER TO SIGN A WRITTEN AGREEMENT FOR PROVISION OF CITY SERVICES PER TEXAS LOCAL GOVERNMENT CODE SECTION 43.0672; ESTABLISHING THE INITIAL LAND USE DESIGNATION; ESTABLISHING ORIGINAL ZONING; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, a public hearing was held before the City Council of the City of Tyler, Texas, on the 8th day of December, 2021, via regular meeting, wherein all interested persons were provided an opportunity to be heard on the proposed voluntary annexation of the territory hereinafter described. A copy of the Texas Local Government Code Section 43.0671 petition is attached and made a part hereof as Exhibit "C"; and

**WHEREAS**, the area to be annexed is contiguous to the City of Tyler; and

**WHEREAS**, the hereinafter described territory lies within the extraterritorial jurisdiction of the City of Tyler, Texas; and

**WHEREAS**, the hereinafter described territory contains approximately 7.12 acres of land; and

**WHEREAS**, Texas Local Government Code Section 43.0671 states that a municipality may annex an area if each owner of the land in the area requests the annexation; and

**WHEREAS**, Texas Local Government Code Section 43.0672(a) states that the governing body of a municipality that elects to annex an area under Texas Local Government Code Chapter 43, Subchapter C-3, must first negotiate and enter into an agreement with the owners of the land in the area for the provision of services in the area; and

**WHEREAS**, the notice requirements of Texas Local Government Code Section 43.0673 have been met;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That pursuant to Tyler City Code Sections 10-800 through 10-802, the Texas Local Government Code Section 43.0671 petition is hereby granted and the following described land and territories lying adjacent to and adjoining the City of Tyler, Texas, are hereby added to and annexed to the City of Tyler, Texas, and as shown on the map attached as Exhibit "A" described therein shall be included within the boundary limits of said City, and the present boundary limits of such City, at the various points contiguous to the areas being annexed, are

altered and amended so as to include said areas within the corporate limits of the City of Tyler, Texas. Accordingly, the official Tyler City limits map is hereby adjusted as described in Tyler City Code Section 10-802 and that section and map are amended to reflect this annexation.

**PART 2:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article IV., "Subdivision Design and Improvements", Division E., "Participation and Escrow Policies", is hereby amended by amending the list of annexations in Section 10-143 to add this Ordinance Number, with no other changes.

**PART 3:** That the area so annexed shall be part of the City of Tyler, Texas, and the property so added hereby shall bear its pro rata part of the taxes levied by the City of Tyler, Texas, and the inhabitants thereof shall be entitled to all of the rights and privileges of all the citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City of Tyler, Texas.

**PART 4:** That upon final passage, the annexed area shall be zoned for "PUR", Planned Unit Residential District with final site plan.

**PART 5:** That the initial Land Use Designation for the annexed area is hereby established as Single-Family Medium/Low Density, and it is directed that the Land Use Guide be amended to reflect said uses.

**PART 6:** That the annexed area shall be added to the Council District #2, City Council single member district and the official Voting District Map amended accordingly.

**PART 7:** That the City Manager is hereby authorized to sign an agreement of municipal services per Texas Local Government Code Section 43.0672.

**PART 8:** That the City Clerk shall send to the Texas Secretary of State a copy of the ordinance and statement that the annexation is not involved in any litigation.

**PART 9:** That the City Clerk shall send to the State Comptroller by certified mail a map showing new boundaries for sales tax and a certified copy of the ordinance showing the effective date of the boundary changes.

**PART 10:** That within thirty (30) days of notice of U. S. Justice Department approval of this annexation, the Planning Department, on behalf of the Mayor, shall file a certified copy of this ordinance and a copy or duplicate of the petition with the County Clerk. The Planning Department shall also file annexation information with the Smith County Appraisal District and anyone else who has requested such information.

**PART 11:** That certified notice of the Annexation shall be sent by the Legal Department to any Emergency Services District that is located within the annexed area.

**PART 12:** That this ordinance shall be in full force and effect from and after the date of its passage and approval by the City Council.

PASSED AND APPROVED THIS the 8<sup>th</sup> day of December A. D., 2021.



DONALD P. WARREN, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK

APPROVED:



DEBORAH G. PULLUM,  
CITY ATTORNEY

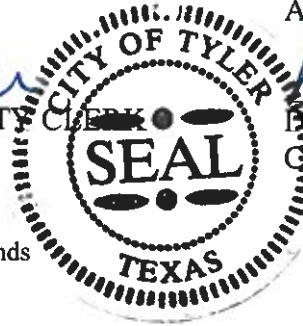
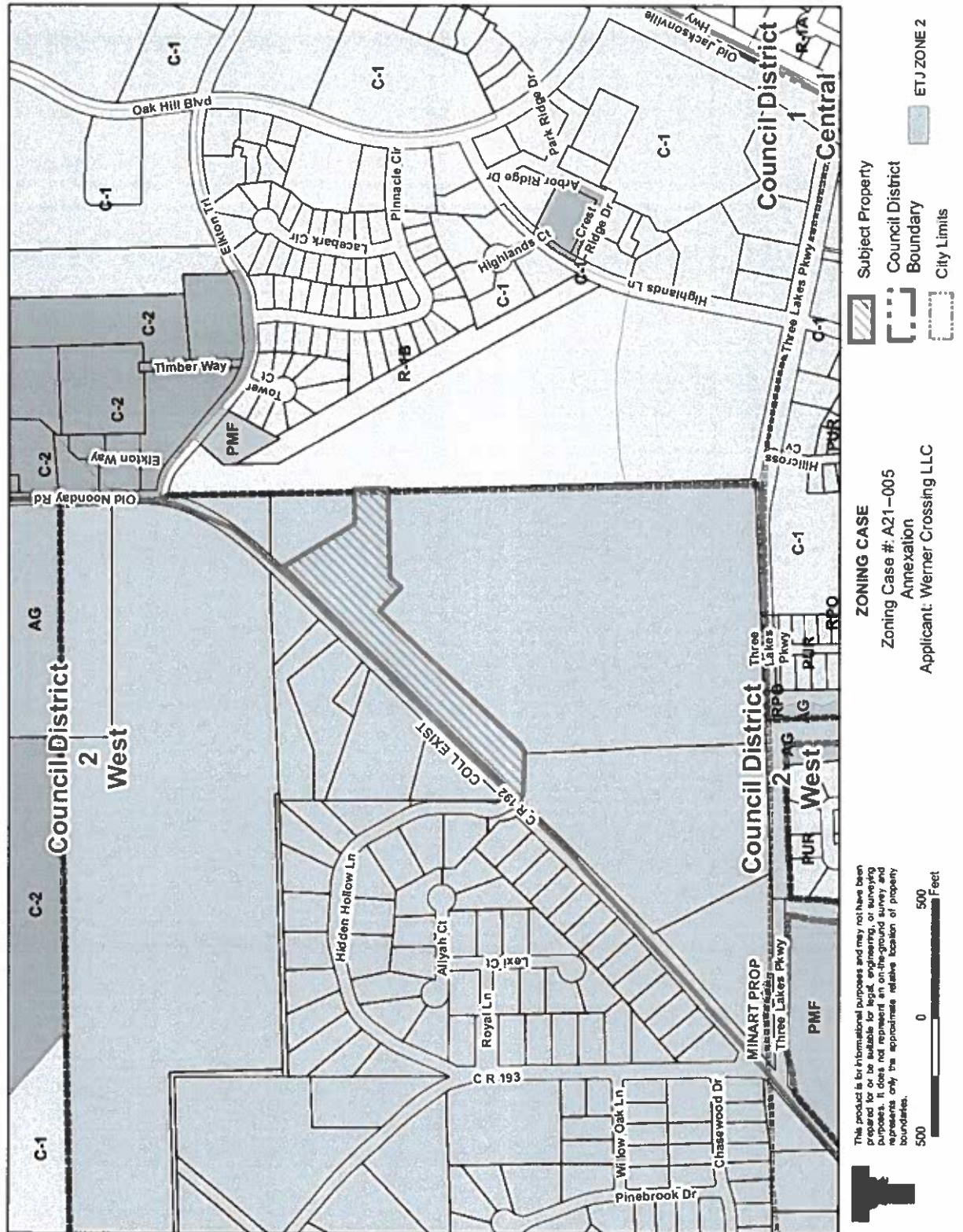


Exhibit A = location map  
Exhibit B = property metes and bounds  
Exhibit C = owner petition  
Exhibit D = zoning map  
Exhibit E = PUR Site Plan



**ORDINANCE NO. O-2021-106**  
**EXHIBIT "A"**  
**LOCATION MAP**



This product is for informational purposes 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 should not be used as the basis for any legal or engineering boundaries.

**ORDINANCE NO. O-2021-106**  
**EXHIBIT "B"**  
**PROPERTY METES AND BOUNDS**



6712 Paluxy Drive  
Tyler, Texas 75703

(903)581-7800  
Fax (903)581-3756

- **Surveying**
- **Mapping**
- **Planning**

TBPLS FIRM NO. 10044500

**Exhibit "A"**  
**7.12 Acre Annexation Tract**

Being a 7.12 acre tract of land situated in the Don Thomas Quevado Survey, Abstract No. 18, Section No. 6, Smith County, Texas and being part of a called 44.145 acre tract described in a Deed from Damaris M. Moore, Trustee of the Joe C. Moore Family Trust to Werner Crossing, LLC recorded under Clerk's File No. 202001048482 of the Official Records of Smith County, Texas, (O.R.S.C.T.), said 7.12 acre tract being more particularly described as follows:

Beginning at a 1/2" iron rod with plastic cap stamped "K.L.K. #4687" set at the North corner of said 44.145 acre tract near the occupied East right-of-way of County Road No. 192-Old Noonday Road;

Thence South 31 degrees 11 minutes 17 seconds East, a distance of 356.69 feet along the North boundary line of said 44.145 acre tract to a 1/2" iron rod found with plastic cap stamped "KLK #4687";

Thence North 88 degrees 39 minutes 38 seconds East, a distance of 140.28 feet continuing along the North boundary line of said 44.145 acre tract to a 1/2" iron rod found with plastic cap stamped "KLK #4687" at the Northeast corner of said 44.145 acre tract and being in the West boundary line of Lot 10, N.C.B. 1660-A of Oak Hill, Unit 10 as evidenced by a Final Plat thereof recorded in Cabinet E, Slide 174-C of the Plat Records of Smith County, Texas (P.R.S.C.T.);

Thence South 01 degrees 54 minutes 06 seconds East, a distance of 145.03 feet along the East boundary line of said 44.145 acre tract and said West boundary line to a point for corner;

Thence South 88 degrees 39 minutes 38 seconds West, a distance of 375.69 feet to a point for corner;

Thence South 43 degrees 29 minutes 12 seconds West, a distance of 64.92 feet to a point for corner;

Thence North 46 degrees 30 minutes 48 seconds West, a distance of 133.73 feet to a point for corner;

Thence South 43 degrees 29 minutes 10 seconds West, a distance of 822.50 feet to a point for corner;

Thence South 59 degrees 15 minutes 03 seconds West, a distance of 35.53 feet to a 1" iron pipe found for an interior ell corner in the West boundary line of said 44.145 acre tract for the Northeast corner of a called 14.342 acre tract described in a Deed from Huckabee Properties, LLC to WLK Investments, LLC recorded under Clerk's File No. 20120038023 of the Official Public Records of Smith County, Texas;

Thence North 88 degrees 30 minutes 15 seconds West, a distance of 180.98 feet along the most westerly South boundary line of said 46.185-acre tract and the North boundary line of said 14.342 acre tract to a 3/8" iron rod found;

Thence North 45 degrees 45 minutes 15 seconds West, a distance of 31.90 feet along the Southwest boundary line of said 44.145 acre tract and the North boundary line of said 14.342 acre tract to a point

for the West corner of said 44.145 acre tract, said point being in County Road No. 192-Old Noonday Road;

Thence North 44 degrees 41 minutes 23 seconds East, a distance of 1404.66 feet along the Northwest boundary line of said 44.145 acre tract and along said County Road No. 192 to the place of beginning, containing 7.116 acres of land more or less

Bearing basis is the Texas State Plane Coordinate System, Grid North Central Zone NAD 83, (Feet) based on the 1993 adjustment of the NAD 83 System. The control monument is TJC1-Tyler, Leica Geosystems Smartnet of North America.

I, Kevin L. Kilgore, Registered Professional Land Surveyor No. 4687, Texas, do hereby certify that the above field note description was prepared from an actual on-the-ground survey made under my direction and supervision during the month of October, 2020.

GIVEN UNDER MY HAND AND SEAL, This the 5th day of October 2020.



Kevin L. Kilgore, R.P.L.S. 4687





**ORDINANCE NO. O-2021-106**  
**EXHIBIT "C"**  
**OWNER PETITION**



FORM A

**REQUEST FOR ANNEXATION OF SPARSELY POPULATED AREAS**  
**BY THE OWNER(S) OF AREA**

**TO THE HONORABLE MAYOR AND GOVERNING BODY  
OF THE CITY OF TYLER, TEXAS**

The undersigned owners of the hereinafter described tract of land hereby request your Honorable Body to extend the present City limits so as to include as a part of the City of Tyler, Texas, the following described territory (complete and accurate field notes must be attached), to-wit:

Being the above described area is one-half (1/2) mile or less in width and is sparsely populated, the owner(s) request that the City of Tyler, Texas, annex this area on petition of the area landowner(s), pursuant to Texas Local Government Code Section 43.028, which provides for the annexation of sparsely populated areas without the hearings and rigid time schedule required for general annexations or those annexations undertaken unilaterally by the City.

That I (we), the undersigned, hereby certify that the tract described on FORM A and attached field notes, which is the subject of this annexation petition, is located adjacent to and adjoins the existing corporate limits of the City of Tyler, Texas, that this area is one-half (1/2) mile or less in width, that this area is sparsely populated as evidenced by the list on FORM D of the qualified voters residing in the area to be annexed, and that this petition is signed and duly acknowledged by each and every individual or corporation having a proprietary interest in said land.

IN WITNESS WHEREOF, I (We), as owner(s) of real property in the area to be annexed, request annexation of this area, pursuant to Texas Local Government Code Section 43.028, by signing this annexation on the date shown below.

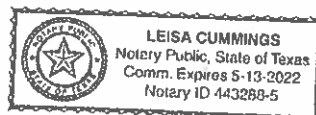
*[Signature]*  
SIGNATURE  
9/29/21  
DATE

Michael J. Werner  
PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF Texas  
COUNTY OF Smith

This petition was acknowledged before me on the 29th day of September,  
2021 by Michael J. Werner



*[Signature]*  
Notary Public  
State of Texas



FORM A1

That I (we), the undersigned, hereby certify that the tract described on FORM A, which is the subject of this annexation petition, is located adjacent to and adjoins the existing corporate limits of the City of Tyler, Texas, that this area is one-half (1/2) mile or less in width, that this area is sparsely populated as evidenced by the list on FORM D of the qualified voters residing in the area to be annexed, and that this petition is signed and duly acknowledged by each and every individual or corporation having a proprietary interest in said land.

IN WITNESS WHEREOF, I (We), as owner(s) of real property in the area to be annexed, request annexation of this area, pursuant to Texas Local Government Code Section 43.028, by signing this annexation on the date shown below.

[Signature]  
SIGNATURE  
9/29/21  
DATE

Michael J. Werner  
PRINT NAME

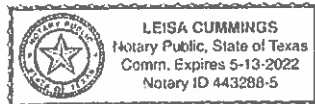
\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF Texas  
COUNTY OF Smith

This petition was acknowledged before me on the 29<sup>th</sup> day of September, 2021 by Michael J. Werner.



[Signature]  
Notary Public  
State of Texas

(ACKNOWLEDGMENT)

THE STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

This petition was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
State of \_\_\_\_\_






FORM B

APPLICANT'S SUPPORT INFORMATION FOR ANNEXATION REQUEST

Applicants should submit the following information in support of their petition for annexation. This information will be utilized by the staff in preparing comments for the Planning and Zoning Commission and City Council, and in responding to citizens' inquiries.

1. I (We) propose to utilize this property for the following purpose(s):  
Residential Development
2. I (We) am/are requesting this annexation for the following reason(s):  
Develop a residential neighborhood with City utilities and services.
3. State present use and condition of property and/or structures:  
Property is currently undeveloped.
4. What is the location of the nearest water and sewer lines? Please indicate location on area map. (This information is available at the City Water Utilities Department, 511 West Locust Street)  
Water and sewer are available adjacent to property along Three Lakes Parkway and in the Crossing. The property to the south (The Crossing) is being developed by the same group.
5. Any additional information that you desire to provide concerning your annexation request:

903-539-9634  
Owner's Telephone Number

SIGNED:  
  
OWNER (of property to be annexed)

OR

\_\_\_\_\_  
Agent's Telephone Number

\_\_\_\_\_  
AGENT (When applicable - See Form E)



FORM C

**LIST OWNER(S) OF ALL PROPERTY TO BE ANNEXED**

List the names and addresses of all owners of property included within the area requested by the petition to be annexed. (Please print)

NAME	MAILING ADDRESS
1. Werner Crossing LLC	7266 Crosswater Tyler 75703
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	



FORM D

**LIST OF NAMES OF ALL QUALIFIED VOTERS RESIDING IN THE AREA**

In order for an area to qualify for annexation under Texas Local Government Code Section 43.028, the area must be vacant or without residents, or on which fewer than three (3) qualified voters reside.

List the names, age and address of all qualified voters residing within the area requested to be annexed by this petition. For purposes of this annexation request, a qualified voter is an individual of legal age in the State of Texas, 18 years or older, which meets the residency requirements and is therefor qualified to register to vote.

**NAME AND AGE**

**MAILING ADDRESS**

1. No one resides on the property
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

SIGNED: 

Owner et al (of property to be annexed)

Agent (when applicable – See Form F)



### AUTHORIZATION OF AGENT

FORM E

I (We), the undersigned, being owners of real property to be annexed according to this Application, do hereby authorize (print name and address of agent) Mark Priestner 3815 Old Bullard Rd Tyler, Tx 75701 to act as our Agent in the matter of this annexation. The term "agent" shall mean any lessee, developer, option holder, or other authorized individual who is authorized to act in behalf of the owner(s) of said property to be annexed.

(Form to be signed below by all owners of property to be annexed.)

SIGNATURE	MAILING ADDRESS
1. <u>[Signature]</u>	<u>7266 Crosswater Tyler 75703</u>
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____

(This form is necessary only when the person representing this request does not own any of the property to be annexed. Person must also sign Forms B & G as "Agent".)





FORM G

**PETITION FOR ORIGINAL ZONING OF THE AREA TO BE ANNEXED**

Before the City Planning and Zoning Commission and the City Council  
of the City of Tyler, Texas

The undersigned, as owner(s) or agent for the owner(s) of the area to be annexed, hereby makes application for the original zoning of the area to be annexed (insert zoning classification desired) PUR. If more than one zoning classification is requested for the area, please indicate on the area map what zoning classification is requested for each portion. Complete and accurate field notes are required delineating the different zones requested.

For the property owner which does not request original zoning, the Planning and Zoning Commission as part of its recommendation for approval of this annexation will recommend a zoning classification(s) for the area to be annexed.

Wherefore, the owner(s) request that the Planning and Zoning Commission consider the original zoning requested, and that the Planning and Zoning Commission recommend this zoning to the City Council of the City of Tyler, Texas for adoption.\*

**PROPERTY OWNERS' SIGNATURES**



\_\_\_\_\_  
Agent (When Applicable – See Form E)

\* The Planning and Zoning Commission in recommending this annexation, and the City Council in approving the annexation, are not obligated to also approve the original zoning requested by the property owner(s). All land contained within the corporate limits of the City of Tyler must be zoned, and the Planning and Zoning Commission and the City Council will endeavor to approve original zoning for the area to be annexed as requested by the property owner(s) if such zoning is appropriate for the existing or likely use of the property to be annexed, and is compatible with current zoning and existing development in that section of the City for which the annexed area will become a part.

This product is for informational purposes 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.

**ZONING CASE**  
 Zoning Case # A21--005  
 Annexation  
 Applicant: Werner Crossing LLC

**Council District 2 West**

**Council District Central**

**Legend:**  
 Subject Property  
 Council District Boundary  
 City Limits

**Scale:** 0 500 Feet



PRELIMINARY PLAT  
HENSHAW CREEK  
PART OF THE DON THOMAS QUEVADO  
SURVEY A-18, SECTION 6,  
SMITH COUNTY, TEXAS

