

ORDINANCE NO. O-2017-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, PROVIDING FOR THE ANNEXATION OF CERTAIN SPARSELTY OCCUPIED AND OWNER-REQUESTED TERRITORY AND REFERRED TO AS ANNEXATION APPLICATION A17-002; CONSTITUTING APPROXIMATELY 11.40 ACRES OF LAND AS DESCRIBED BY A METES AND BOUNDS DESCRIPTION, LOCATED ADJACENT TO THE CITY OF TYLER ON ITS EASTERN BOUNDARY, AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE CITY OF TYLER EXTRATERRITORIAL JURISDICTION; ADJUSTING THE BOUNDARY OF THE CITY COUNCIL DISTRICT # 4; ESTABLISHING THE INITIAL LAND USE DESIGNATION, ESTABLISHING ORIGINAL ZONING; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a public hearing was held before the City Council of the City of Tyler, Texas, on the 22nd day of March, 2017, in the Council Chambers, City Hall, 212 North Bonner, Tyler, Texas, wherein all interested persons were provided an opportunity to be heard on the proposed annexation of the territory hereinafter described, which date is not more than thirty (30) nor less than five (5) days after the filing of the complete Texas Local Government Code Section 43.028 petition, a copy of which is attached and made a part hereof as Exhibit "C"; and

WHEREAS, the area to be annexed is one-half mile or less in width; and

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

WHEREAS, the area to be annexed is vacant and without residents or has fewer than three (3) Qualified Voters; 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 11.40 acres of land;

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 43.028 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" and as described in Exhibit "B" and incorporated herein 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 and the City's ETJ are 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 as 11.4 acres for "PMF", Planned Multi-Family Residential District with final site plan as shown on Exhibit "E", hereinabove mentioned, with additional stipulation that a minimum six foot wooden privacy fence be constructed along all property lines of existing homes.

PART 5: That the initial Land Use Designation for the annexed area is hereby established as Multi-Family, 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 Northeast District #4, City Council single member district and the official Voting District Map amended accordingly.

PART 7: That the Planning and Zoning Department 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 8: 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 9: 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.

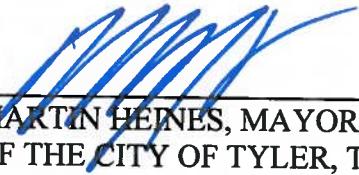
PART 10: That certified notice of the Annexation shall be sent by the Legal Department to any Emergency Services District that is located within the annexed area.

PART 11: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 12: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the

newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be March 24th, 2017.

PASSED AND APPROVED THIS the 22nd day of March A. D., 2017.



MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:



CASSANDRA BRAGER, CITY CLERK



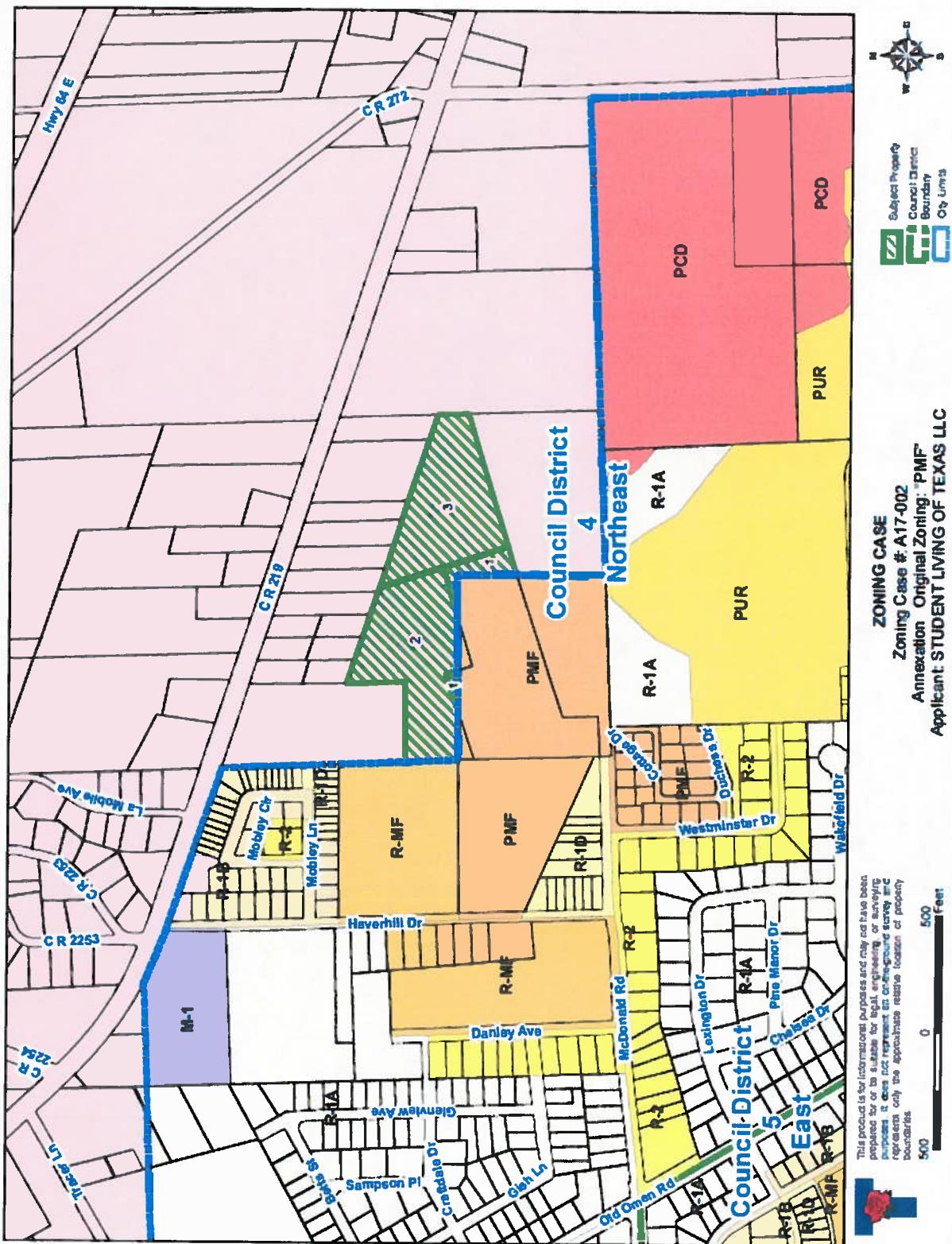
Exhibit A = location map
Exhibit B = legal description
Exhibit C = owner petition
Exhibit D = zoning map
Exhibit E = "PMF", Final Site Plan

APPROVED:



DEBORAH G. PULLUM,
CITY ATTORNEY

ORDINANCE NO. O-2017-22
EXHIBIT "A"
LOCATION MAP



ORDINANCE NO. O-2017-22
EXHIBIT "B"
LEGAL DESCRIPTION
1 OF 3



- Surveying
- Mapping
- Planning

6712 Paluxy Drive • Tyler, Texas 75703 • 903.581.7800 • 903.581.3756

Field Notes
Texas Student Housing
11.40 Acre Tract
Marshall Spell Survey, A-888

BEING a 11.40 acre tract in the Marshall Spell Survey, Abstract No. 888, part of a called 19.00 acre tract described in a Substitute Trustee's Deed from Clark C. Hampe, Jr. to First Bank and Trust East Texas under County Clerk's file number 2011-R00043754 of the Official Records of Smith County, Texas, said 11.40 acre tract being more completely described as follows:

BEGINNING at an axe found at the Northwest corner of said 19.00 acre tract and also being the Southwest corner of a called 6.412 acre tract from Donny L. Melton to Robert T. Mobley, Sr. described in a Deed recorded in Volume 7746, Page 711 of said Smith County Official Public Records;

THENCE North 88 degrees 30 minutes 21 seconds East, a distance of 347.45 feet with the North boundary line of said 19.00 acre tract and the South boundary line of said 6.412 acre tract to a $\frac{1}{2}$ " iron rod found at an ell corner of said 19.00 acre tract and the Southeast corner of said 6.412 acre tract;

THENCE North 02 degrees 40 minutes 17 seconds West, a distance of 251.95 feet with the Northwest boundary line of said 19.00 acre tract and the East boundary line of said 6.412 acre tract to a $\frac{1}{2}$ " iron rod found in same at the most Northerly Northwest corner of said 19.00 acre tract, and the Southwest corner of a called 0.482 acre tract, (Tract One), from Irvela Harden to Donald Frank Harden and Sandra Lynn Harden described in a Deed recorded in Volume 4108, Page 143 of said Smith County Official Records;

THENCE South 70 degrees 46 minutes 03 seconds East, a distance of 111.02 feet with the North boundary line of said 19.00 acre tract and the South boundary line of said 0.482 acre tract to a $\frac{1}{2}$ " iron rod found at the Southeast corner of said 0.482 acre tract, same being the Southwest corner of a called 0.4586 acre tract from Irvela Harden to Donald Frank Harden and Sandra Lynn Harden described in a Deed recorded in Volume 2537, Page 302 of said Smith County Official Records;

THENCE South 71 degrees 30 minutes 18 seconds East, a distance of 105.26 feet with the North boundary line of said 19.00 acre tract and the South boundary line of said 0.4586 acre tract to a $\frac{1}{2}$ " iron rod found at the Southeast corner of said 0.4586 acre tract, same being the Southwest corner of a called 0.4218 acre tract, (Tract Two), from Irvela Harden to Donald Frank Harden and Sandra Lynn Harden described in a Deed recorded in Volume 4108, Page 143 of said Smith County Official Records;

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EXHIBIT "B"
LEGAL DESCRIPTION
2 OF 3

THENCE South 70 degrees 55 minutes 26 seconds East, a distance of 96.29 feet with the North boundary line of said 19.00 acre tract and the South boundary line of said 0.4218 acre tract to a $\frac{1}{2}$ " iron rod found at the Southeast corner of said 0.4218 acre tract, same being the Southwest corner of a called 1 acre tract to Karen Ann Herring in an Affidavit of Heirship in Volume 7459, Page 825, described in a Deed recorded in Volume 2864, Page 696 of said Smith County Official Records;

THENCE South 71 degrees 31 minutes 12 seconds East, a distance of 314.17 feet with the North boundary line of said 19.00 acre tract and the South boundary line of said called 1 acre tract to Karen Ann Herring, a called 1 acre tract from Doris Marie Fry, a widow, to Donna Worthy described in a Deed recorded in Volume 4314, Page 17, a called 1 acre tract from Alta O. Elliot to Annette Scudder described in a Deed recorded in Volume 5549, Page 248 of said Smith County Official Records to a 5/8" galvanized iron pipe found at the Southeast corner of said 1 acre Scudder tract and being at the Southwest corner of a called 0.788 acre tract from Velma Cannon Atkins et al to Lois Cannon Humphries and Bill Louis Humphries described in a Deed recorded in Volume 7239, Page 240 of said Smith County Official Records;

THENCE South 72 degrees 13 minutes 38 seconds East, a distance of 200.84 feet with the North boundary line of said 19.00 acre tract and the South boundary line of said called 0.788 acre tract and a called 0.768 acre tract from Steve F. Mallory to Steven Hauck described in a Deed recorded in Volume 5025, Page 130 to a $\frac{1}{2}$ " iron rod found at the Southeast corner of said 0.768 acre tract and being the Southwest corner of a called First Tract from W. T. Barbee to Brenda Marie Murphy described in a Deed recorded in Volume 5159, Page 327 of said Smith County Official Public Records;

THENCE South 71 degrees 39 minutes 01 seconds East, a distance of 393.52 feet with the North boundary line of said 19.00 acre tract, the South boundary line of said First Tract, the South boundary line of a called Second Tract from W. T. Barbee to Brenda Marie Murphy described in a Deed recorded in Volume 5159, Page 327 of said Smith County Official Records, and the South boundary line of a called 1 acre tract to Ricky L. Helms recorded under County Clerk's file number 2010-R00030056 of said Smith County Official Records to a $\frac{1}{2}$ " iron rod found at a Northeast corner of said 19.00 acre tract, the Southeast corner of said Ricky Helms tract, and in the West boundary line of a called 13.743 acre tract from Nations Bank of Texas, N.A., trustee of the Frances Eugene Mosley Trust and the Kay Carolyn Giles Lane Trust to Wadel L. Luman and wife, Lula M. Luman described in a Deed recorded in Volume 3628, Page 422 of said Smith County Official Records;

THENCE South 02 degrees 13 minutes 20 seconds East, a distance of 67.23 feet with the East boundary line of said 19.00 acre tract and the West boundary line of said 13.743 acre tract to a 1"x1/8" iron bar found in same;

THENCE South 02 degrees 28 minutes 10 seconds East, a distance of 58.27 feet with said East boundary line and said West boundary line to a $\frac{1}{2}$ " iron rod found at the Southeast corner of said 19.00 acre tract;

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EXHIBIT "B"
LEGAL DESCRIPTION
3 OF 3

THENCE South 72 degrees 02 minutes 05 seconds West, a distance of 720.88 feet with the South boundary line of said 19.00 acre tract to a point for corner **in** the existing City Limits of Tyler, Texas;

THENCE North 01 degrees 01 minutes 46 seconds **West**, a distance of 274.12 feet continuing with said City Limits to a point for corner;

THENCE South 88 degrees 04 minutes 24 seconds **West**, at distance of 798.48 feet continuing with said City Limits to a $\frac{1}{2}$ " iron rod found on the West boundary line of said 19.00 acre tract and being at the Northeast corner of Lot 1, N.C.B. 1445-C, same being the Southeast corner of Lot 14, N.C.B. 1445-A of Quail Valley Estates as shown by an Amended plat thereof recorded in Cabinet E, Slide 122-B of said Smith County Plat Records;

THENCE North 02 degrees 38 minutes 01 seconds **West**, a distance of 226.22 feet with the West boundary line of said 19.00 acre tract, the East boundary line of said Lot 14, N.C.B. 1445-A of Quail Valley Estates to the PLACE OF BEGINNING containing 11.40 acres of land.

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 Reference Monument is DABR-g0811 per Trimble VRS Network.

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, 2012.

GIVEN UNDER MY HAND AND SEAL, this 27th day of January, 2017.



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



ORDINANCE NO. O-2017-22
EXHIBIT "C"
OWNER PETITION



RECEIVED: _____
REFERRAL NO.: _____

APPLICATION NO. _____

**INFORMATION FOR REQUESTING ANNEXATION
FOR SPARSELY OCCUPIED AREA**

ITEMS REQUIRED FOR EACH APPLICATION:

(The following items are included in this packet. Instructions are included on each form. There is some repetition because the different forms are necessary for different reasons.)

- A. PETITION FOR ANNEXATION
- B. APPLICANT'S SUPPORT INFORMATION FOR ANNEXATION REQUEST
- C. LIST OF OWNERS OF ALL PROPERTY TO BE ANNEXED
- D. LIST OF QUALIFIED VOTERS RESIDING IN AREA TO BE ANNEXED
- E. AUTHORIZATION OF AGENT
- F. MAP OF AREA (FORM F IS AN EXAMPLE ONLY.)

(Provide a map of the area of the annexation request drawn to scale. Show all land uses, identify the ownership of each parcel of land, show any public ways within or abounding the areas, show any easements within or bordering the areas, and show the existing city limits.)

- G. PETITION FOR ORIGINAL ZONING

~~1/50.00~~

(NOTE: Filing fee of \$300.00 (City Code Sec. 10-776) must be received with annexation petition)

ALL ANNEXATION IS BY ORDINANCE, AND ONLY THE CITY COUNCIL HAS THE AUTHORITY TO ENACT AN ORDINANCE. THE COUNCIL HAS ASSIGNED THE STUDY OF ANNEXATIONS TO THE CITY PLANNING AND ZONING COMMISSION, WHICH WILL MAKE RECOMMENDATIONS TO THE COUNCIL. THIS REQUEST FOR ANNEXATION WILL NOT BE EFFECTIVE UNLESS IT IS PASSED BY THE CITY COUNCIL.

(NOTE: The Planning and Zoning Commission hears all requests on the first Tuesday of each month at 1:30 p.m. in the City Council Chambers, City Hall, 212 N. Bonner Avenue.)

**ANNEXATION PETITIONS MUST BE FILED IN THE PLANNING AND ZONING DEPARTMENT,
TYLER DEVELOPMENT CENTER, 423 WEST FERGUSON.**

THE FILING DEADLINE FOR THE _____, PLANNING AND ZONING COMMISSION MEETING WILL BE _____, AT 5:00 P.M. PLEASE HAVE A REPRESENTATIVE PRESENT AT ALL PUBLIC HEARINGS. THE APPLICANT HAS THE DUTY TO PRODUCE EVIDENCE BEFORE THE PLANNING AND ZONING COMMISSION AND CITY COUNCIL TO JUSTIFY THE PROPOSED ANNEXATION.



FORM A

**REQUEST FOR ANNEXATION OF SPARSELY OCCUPIED AREA
BY THE OWNER(S) OR 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; a notes and bounds description is required), 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 43.022, which provides for the annexation of sparsely occupied areas without the hearings and rigid time schedules 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 43.022, by signing this petition on the date shown below:

Bruce E. Johnson
SIGNATURE

12-27-06
DATE

Bruce E. Johnson
PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF Texas
COUNTY OF Smith

This petition was acknowledged before me on the 29 day of December, 2016, by Bruce E. Johnson, in his capacity, on behalf of Student Body of Texas, Inc.



Melissa J. Hamilton
Notary Public
State of Texas



FORM B

APPLICANT'S SUPPORT INFORMATION FOR REQUEST FOR ANNEXATION OF SPARSELY OCCUPIED AREA

Applicants shall 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 use this property for the following purpose(s):

*To Build Phase II of the TSL Student Housing Project.
Phase I already has City & PNZ Approvals.*

2. I (We) am/are requesting this annexation for the following reason(s):

To have City Public Services for Police, Fire, WATER, WASTE & AVAILABLE ON THE PROPERTY

3. State present use and condition of property and/or structures:

*There are NO STRUCTURES ON THE SUBJECT PROPERTY AS OF
THIS DATE.
The land is Fallow and unseeded at this time.*

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 is located in the street c 3980 Mc Donald DR.
Waste line is located in the street directly in front of the property
c 3980 Mc Donald DR.*

5. Any additional information that you wish to provide concerning your annexation request:

559-246-3295
Owner's Telephone Number

SIGNED:

Brad Johnson
OWNER (of property to be annexed)

OR

972-750-6351
Agent's Telephone Number

MR. Brad Johnson
AGENT (When applicable - See Form E)

**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. <u>Bruce E. Johnson</u>	7 3040 Peacocke DR
2. <u>Student Council of Texas LLC</u>	Plano TX 75024-7571
3. _____	
4. _____	
5. _____	
6. _____	
7. _____	
8. _____	
9. _____	
10. _____	
11. _____	
12. _____	
13. _____	
14. _____	
15. _____	
16. _____	
17. _____	
18. _____	
19. _____	
20. _____	

**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. There are no registered, qualified voters 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 E)

**AUTHORIZATION OF AGENT**

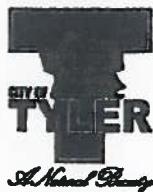
I (We), the undersigned, being owners of real property to be annexed according to this Application, do hereby authorize (print name and address of Agent) HC Bud Johnson
10383 Preston Road, 150 Dallas, TX 75252 to act as our Agent in the matter of this annexation. The term "Agent" shall mean any lessee, developer, option holder, or other 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.)

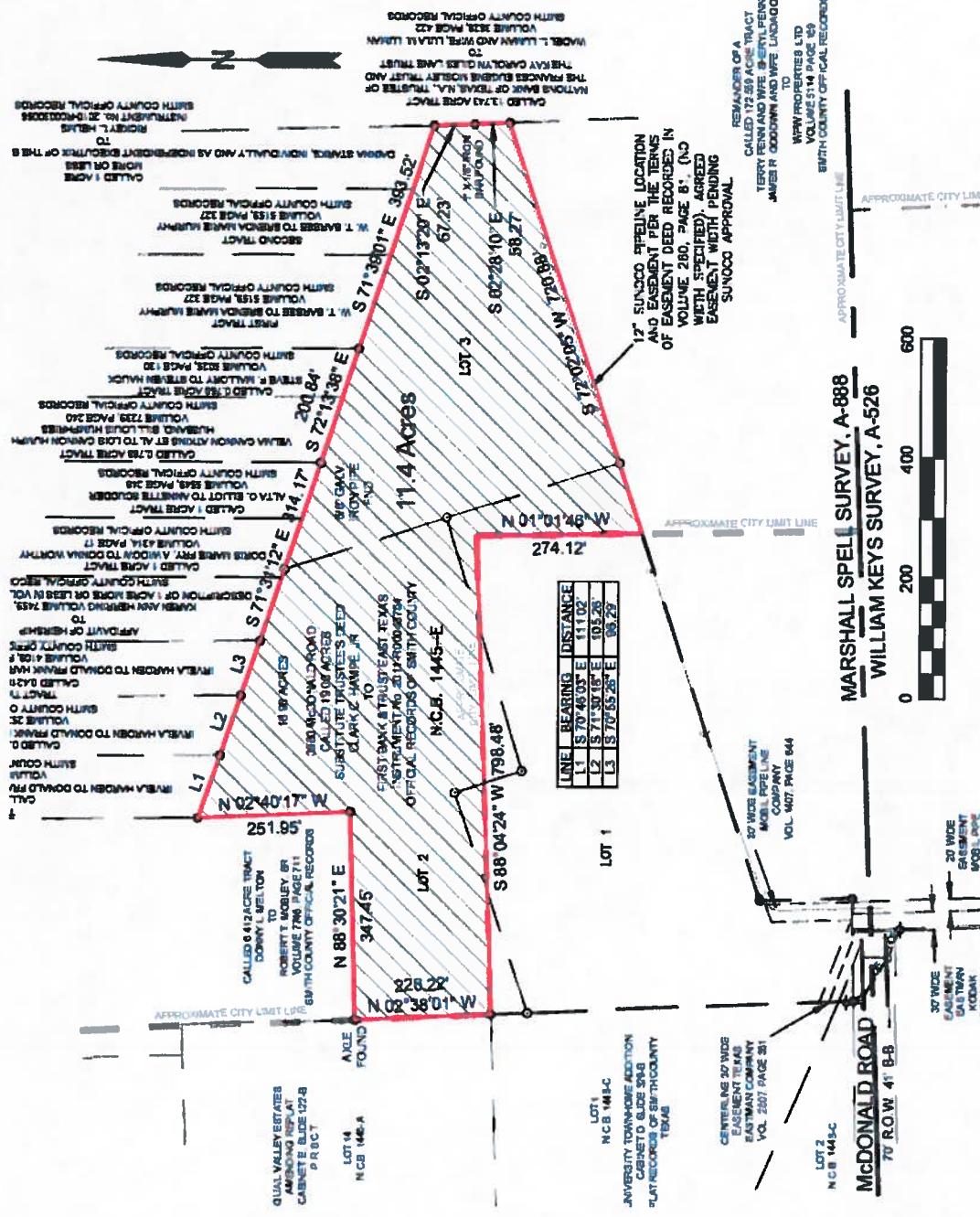
SIGNATURE**MAILING ADDRESS**

1.
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".)



AREA MAP





A 17-002

FORM G

PETITION FOR ORIGINAL ZONING OF SPARSLY OCCUPIED 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) *PMF Planned Multi Family*. 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. A metes and bounds description is required.

Planned Multi-Family Residential District

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

Bruce E. Johnson

Mr. Bruce Johnson
Agent (When Applicable - See Form E)

* The Planning and Zoning Commission in recommending any annexation, and the City Council in approving any 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.

**ORDINANCE NO. O-2017-22
EXHIBIT "E"
"PMF" FINAL SITE PLAN**

