

ORDINANCE NO. O-2017-55

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, PROVIDING FOR THE ANNEXATION OF CERTAIN SPARSELY OCCUPIED AND OWNER-REQUESTED TERRITORY AND REFERRED TO AS ANNEXATION APPLICATION A17-004; CONSTITUTING APPROXIMATELY 15.06 ACRES OF LAND AS DEPECTED BY A PLAT OF SURVEY, LOCATED ADJACENT TO THE CITY OF TYLER ON ITS SOUTHERN BOUNDARY, AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE BOUNDARY OF THE CITY COUNCIL DISTRICT #2; AND ESTABLISHING ORIGINAL ZONING.

WHEREAS, a public hearing was held before the City Council of the City of Tyler, Texas, on the 26th day of July, 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 15.06 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 depicted in Exhibit "B" 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 15.06 acres for "C-1", Light Commercial District as shown on Exhibit "D", hereinabove mentioned.

PART 5: That the annexed area shall be added to the West District #2, City Council single member district and the official Voting District Map amended accordingly.

PART 6: 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 7: 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 8: That within thirty (30) days of notice of U. S. Justice Department approval of this annexation, the Planning and Zoning 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 and Zoning Department shall also file annexation information with the Smith County Appraisal District and anyone else who has requested such information.

PART 9: 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 10: 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 26th day of July A. D., 2017.



MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS


A T T E S T:

APPROVED:



CASSANDRA BRAGER, CITY CLERK

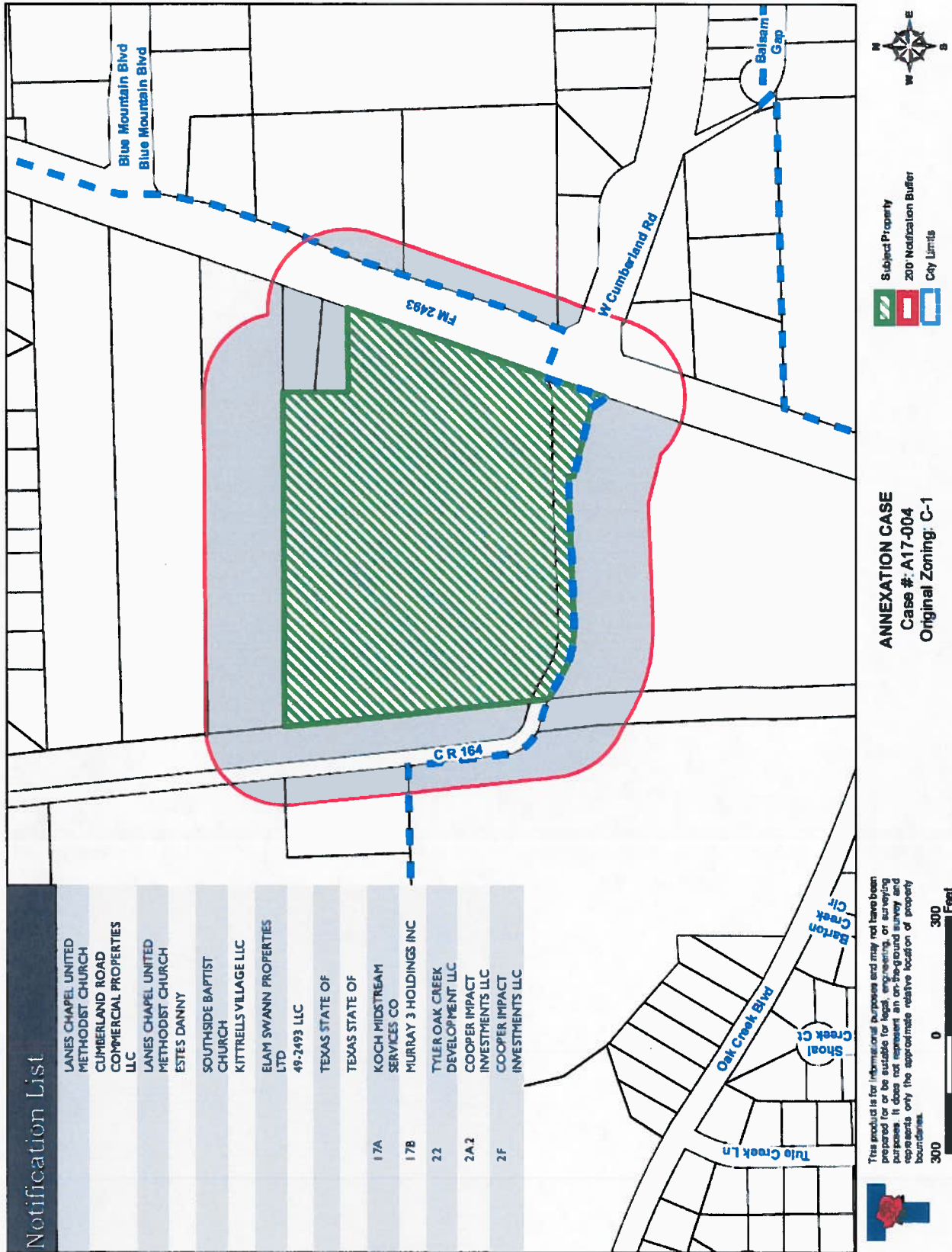




DEBORAH G. PULLUM,
CITY ATTORNEY

Exhibit A = location map
Exhibit B = plat of survey
Exhibit C = owner petition
Exhibit D = zoning map

**ORDINANCE NO. O-2017-55
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 represents only the approximate relative location of property boundaries.

LEGEND

- Survey Point
- Survey Line
- Survey Area
- Survey Boundary
- Survey Point
- Survey Line
- Survey Area
- Survey Boundary

PLAT OF SURVEY
15.061 Acres of Land
 Being All of the Remainder of that Caled 18 6107 Acres Tract
 Being Described in a Warranty Deed from Barry K. White
 to Kinross Village, LLC Recorded in Instrument No. 2015 00020121
 Official Public Records of Smith County, Texas
 Don Thomas Quincey Seven Leagues Grant, Ached No. 18, Section 4
 Smith County, Texas
 Client: Kinross Village, LLC

Scale: 1" = 100'

North Arrow: (Indicated by a line with an arrow pointing towards the top right)

ORDINANCE NO. O-2017-55
EXHIBIT "C"
OWNER PETITION



RECEIVED

MAY 24 2017

PLANNING DEPARTMENT

RECEIVED: [Signature]
REFERRAL NO.: _____

APPLICATION NO. A17-004

**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

(NOTE: Filing fee of \$350.00 (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 July 11, PLANNING AND ZONING COMMISSION MEETING WILL BE June 5, 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) 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; a metes 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 43.028, which provides for the annexation of sparsely occupied 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 petition on the date shown below.

SIGNATURE

5-19-17

DATE

PRINT NAME

SCOTT KIRRELL

KIRRELLS VILLAGE LLC

(ACKNOWLEDGMENT)

THE STATE OF TEXAS
COUNTY OF SMITH

This petition was acknowledged before me on the 22 day of May,
2017 by KEVIN BRAUGHTON.

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 occupied 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 petition on the date shown below.

Scott Kittrell
SIGNATURE
5-19-17
DATE

SCOTT KITTRELL
PRINT NAME
KITTRELLS VILLAGE, LLC

Edwin N. Kittrell
SIGNATURE
5-22-17
DATE
7-11-2017

Edwin N. Kittrell
PRINT NAME
Y

(ACKNOWLEDGMENT)

THE STATE OF TEXAS
COUNTY OF SMITH

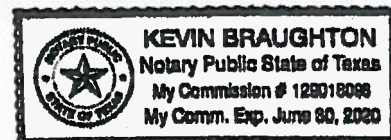


This petition was acknowledged before me on the 22 day of MAY,
2017 by Kevin Braughton

[Signature]
Notary Public
State of Texas

(ACKNOWLEDGMENT)

THE STATE OF TEXAS
COUNTY OF SMITH



This petition was acknowledged before me on the 22 day of MAY,
2017 by Kevin Braughton

[Signature]
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):

COMMERCIAL DEVELOPMENT

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

TO BE BROUGHT INTO CITY FOR DEVELOPMENT

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

UNDEVELOPED - AG USE

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)

SEE ATTACHED

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

SIGNED:

Owner's Telephone Number

903-312-7075

Agent's Telephone Number

OWNER (of property to be annexed)

OR

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. KITRELLS VILLAGE, LLC 121 S. BROADWAY, STE 708
 2. C/O SCOTT KITRELL TYLER, TX 75702
 3. _____
 4. EDWIN KITRELL 121 S. BROADWAY, STE 708
 5. _____ TYLER, TX 75702
 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. NONE
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

SIGNED:

Owner et al (of property to be annexed)


Agent (when applicable - See Form E)



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) MARY PRIESTNER
3315 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 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>121 S. BROADWAY STE 708 TYLER TX 75702</u> |
| 2. <u>Edwin A. [Signature] III</u> | <u>121 S. BROADWAY STE 708 TYLER, TX 7570</u> |
| 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 SPARSELY 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) C-1. 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.

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.

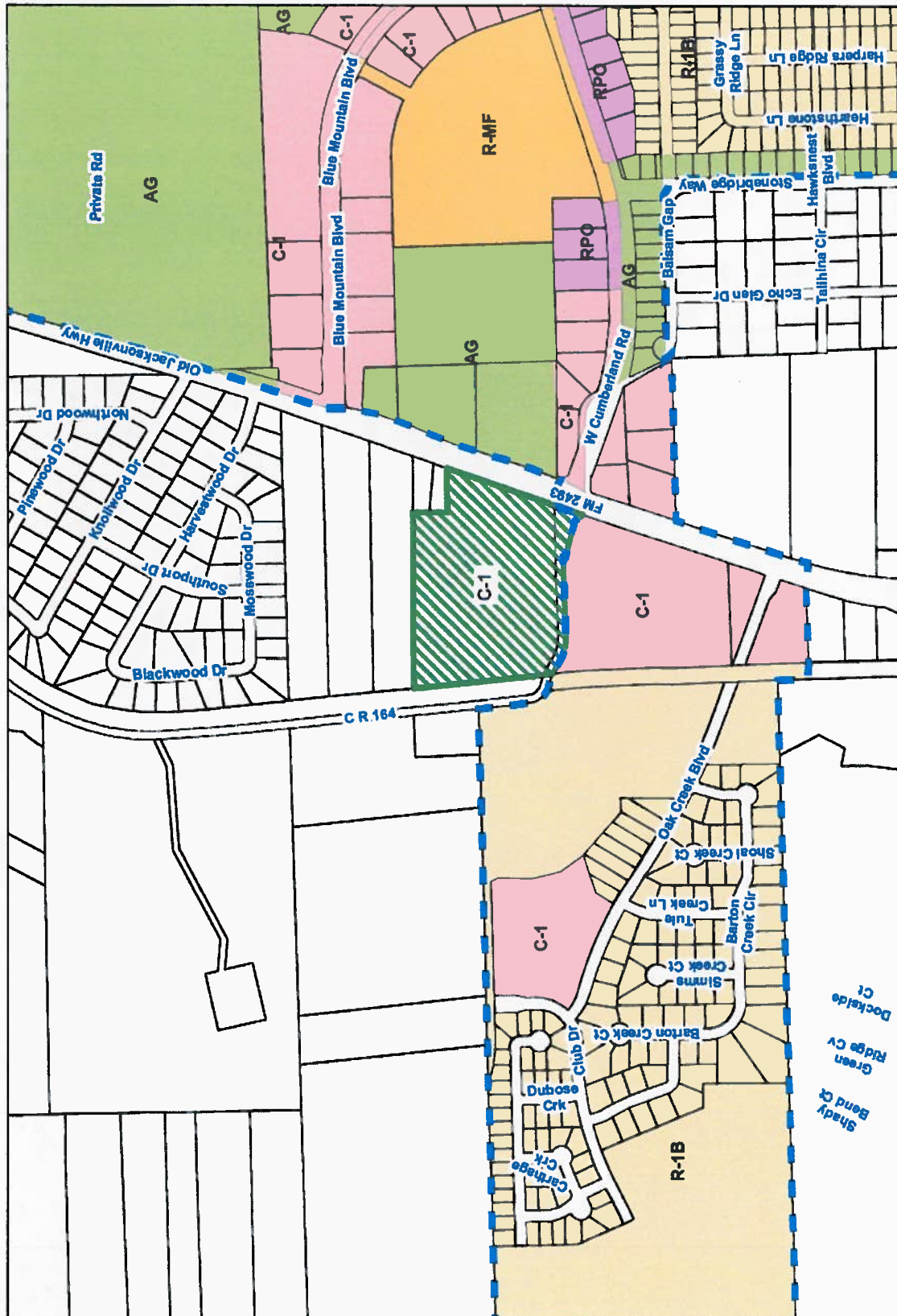
Wherefore, the owner(s) request that the Planning and Zoning Commission consider the original zoning requested, and that the Planning and Zoning Commission recommend this zoning to the City Council of the City of Tyler, Texas for adoption.*

PROPERTY OWNERS' SIGNATURES


Agent (When Applicable - See Form E)

* The Planning and Zoning Commission in recommending 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-2017-55
EXHIBIT "D"
ZONING MAP**



ANNEXATION CASE
Case #: A17-004
Original Zoning: C-1

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.

