

**ORDINANCE NO. O-2016-83**

**AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; BY CHANGING THE ZONING FROM "AG", AGRICULTURAL DISTRICT AND "R-MF", MULTI-FAMILY RESIDENTIAL DISTRICT TO "C-1", LIGHT COMMERCIAL DISTRICT ON PORTIONS OF THE ROBERT BARTLETT SURVEY ABSTRACT NO. 129 AND THE DRURY SMITH SURVEY ABSTRACT NO. 927 TOTALING APPROXIMATELY 1.58 ACRES OF LAND LOCATED AT THE NORTHWEST INTERSECTION OF PALUXY DRIVE AND TOLL 49 (1712 SKIDMORE LANE); DIRECTING THE AMENDMENT OF THE ZONING MAP; DIRECTING THE AMENDMENT OF THE FUTURE LAND USE GUIDE; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

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

**PART 1:** That the following zone change is hereby approved as follows:

**I. APPLICATION Z16-013**

That the following described property, which has heretofore been zoned "AG", Agricultural District and "R-MF", Multi-Family Residential District, shall hereafter bear the zoning classification of "C-1", Light Commercial District, to wit:

Portions of the Robert Bartlett Survey Abstract No. 129 and the Drury Smith Survey Abstract No. 927 totaling approximately 1.58 acres of land located at the northwest intersection of Paluxy Drive and Toll 49 (1712 Skidmore Lane), and as described in the metes and bounds description attached hereto as Exhibit "A" and incorporated herein.

**PART 2:** That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning and the future land use guide be amended to reflect Mixed-Use Center.

**PART 3:** 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 4:** That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 28<sup>th</sup> day of September A.D., 2016.

~~MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS~~

ATTEST:

Cassandra Brager  
CASSANDRA BRAGER, CITY CLERK



APPROVED:

Deborah G. Pullum  
DEBORAH G. PULLUM,  
CITY ATTORNEY

ORDINANCE NO. O-2016-83  
EXHIBIT "A"  
METES AND BOUNDS DESCRIPTION



- Surveying
- Mapping
- Planning

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

EXHIBIT "A"  
1.58 Acre Tract  
Robert Bartlett Survey, Abstract No. 129  
& Drury Smith Survey, Abstract No. 927

Being a 1.58 acre tract of land situated in the Robert Bartlett Survey, Abstract No. 129 and the Drury Smith Survey, Abstract No. 927 and being part of a called 3.912 acre tract of land described in a Deed from Howard R. Portwood to Raymond F. Johnson recorded under County Clerk's File No. 2006-R0004953 of the Official Public Records of Smith County, Texas, a called 0.815 acre tract of land described in a Deed from Howard R. Portwood and wife, Marie Portwood to Raymond Johnson recorded in Volume 2249, Page 398, of the Land Records of Smith County, Texas, a called 1.118 acre tract of land described in a Deed from Porter Skidmore and wife, Eloise Skidmore to Raymond Johnson recorded in Volume 2208, Page 505 of said Smith County Land Records, and a called 24.82 acre tract of land described in a Deed from Neal Adams Pock to Raymond F. Johnson recorded in Volume 7277, Page 857 of the Official Public Records of Smith County, Texas, said 1.58 acre tract being more completely described as follows:

Beginning at a Texas Department of Transportation Type II, (brass disc in concrete flush with ground), Right of Way Monument found for the Southeast corner of said 24.82 acre tract, same also being at the intersection of the West right of way line of Farm to Market Highway No. 756, (variable width right of way), with the North right of way line of Loop 49, (variable width right of way);

Thence South 64 degrees 21 minutes 32 seconds West, a distance of 294.62 feet along the South boundary line of said 24.82 acre tract and the North right of way line of said Loop 49 to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

Thence North 25 degrees 38 minutes 28 seconds West, a distance of 199.31 feet to a Texas Department of Transportation Type II Right of Way Monument found in the South right of way line of Skidmore Lane, same being proposed Centennial Parkway;

Thence North 47 degrees 57 minutes 50 seconds East, a distance of 145.75 feet along said South right of way line to a Texas Department of Transportation Type II Right of Way Monument found at the beginning of a curve in a clockwise direction;

Thence continuing along said South right of way line and along said curve having a delta of 18 degrees 56 minutes 09 seconds, a radius of 270.00 feet, an arc length of 89.23 feet, a chord bearing of North 57 degrees 25 minutes 54 seconds East, and a chord distance of 88.83 feet to a Texas Department of Transportation Type II Right of Way Monument found;

**Thence North 66 degrees 53 minutes 59 seconds East, a distance of 72.53 feet continuing along said South right of way line to a Texas Department of Transportation Type II Right of Way Monument found at the intersection of same with the aforementioned West right of way line of Farm to Market Highway No. 756, said right of way monument found also being at the beginning of a curve in a counterclockwise direction;**

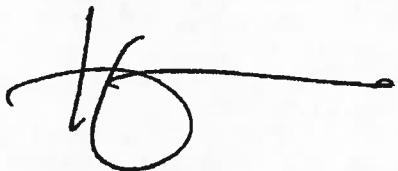
**Thence along said West right of way line and said curve having a delta of 11 degrees 45 minutes 08 seconds, a radius of 786.87 feet, an arc length of 161.40 feet, a chord bearing of South 22 degrees 13 minutes 40 seconds East, a chord distance of 161.12 feet to a 1/2" iron rod found;**

**Thence South 28 degrees 06 minutes 15 seconds East, a distance of 87.20 feet continuing along said West right of way line to the place of beginning containing 1.58 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 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 August, 2016.

**GIVEN UNDER MY HAND AND SEAL, This the 17th day of August, 2016.**

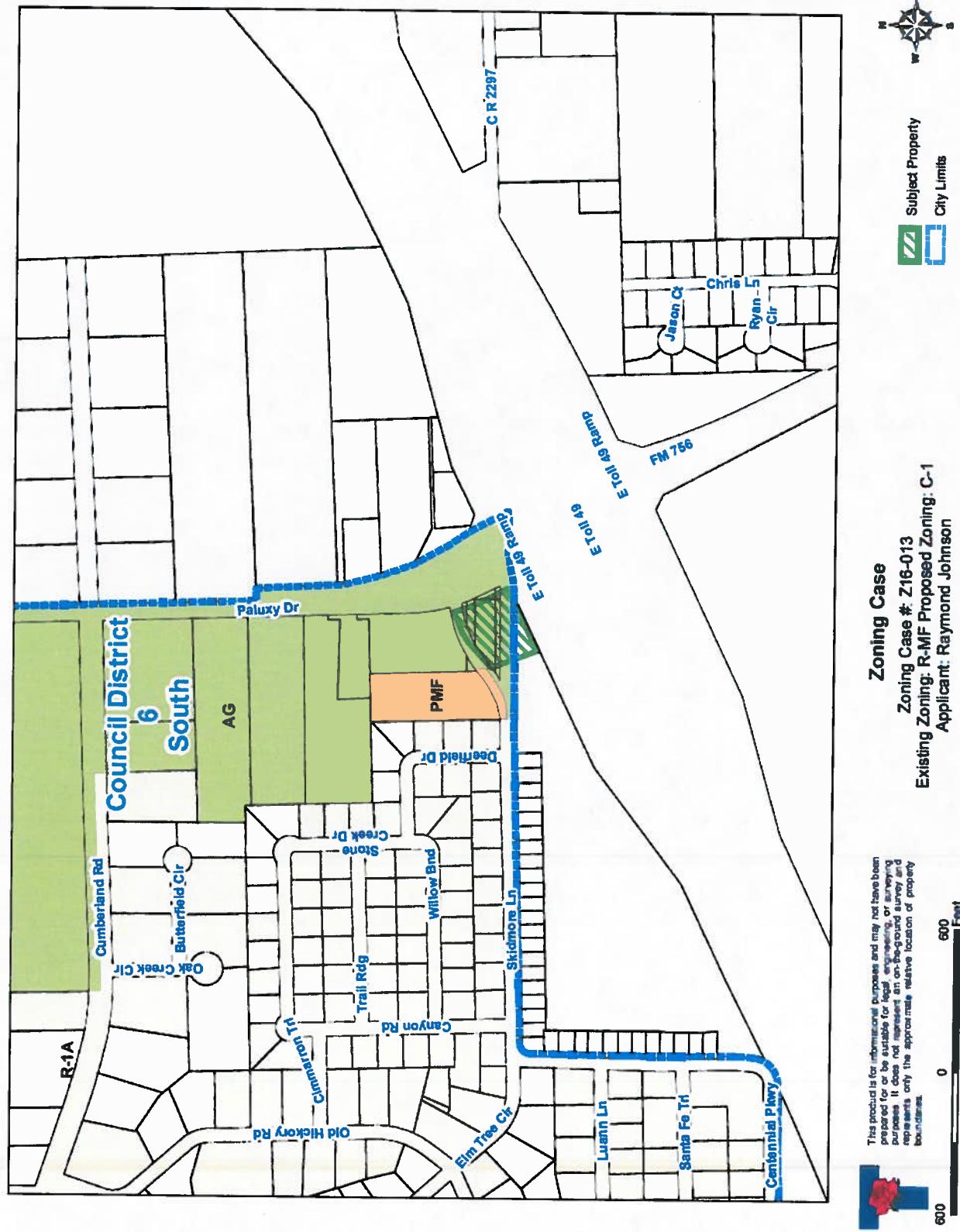


**Kevin L. Kilgore, R.P.L.S. 4687**

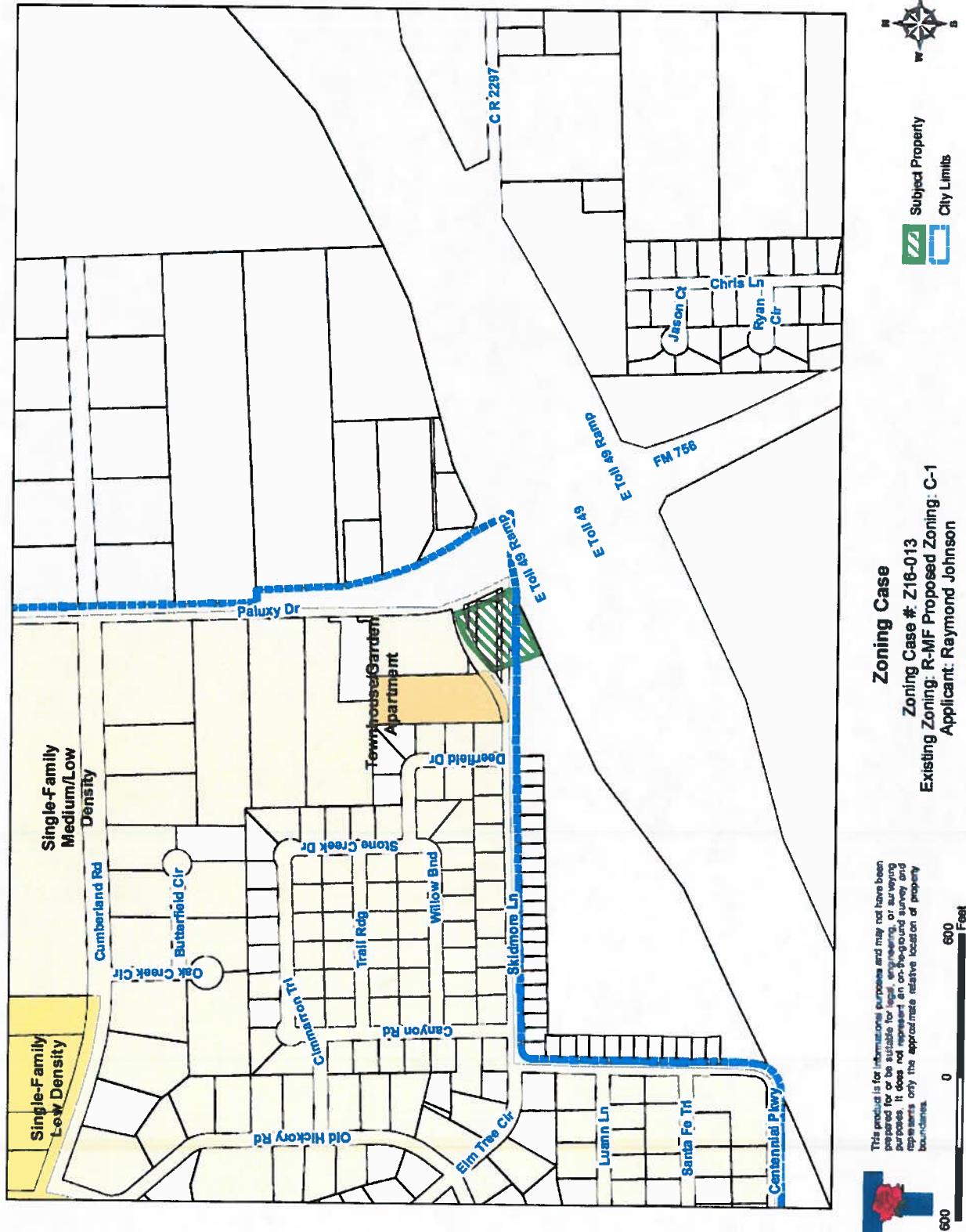
200341 Amended Preliminary Plat (1.58 Ac) fn.doc



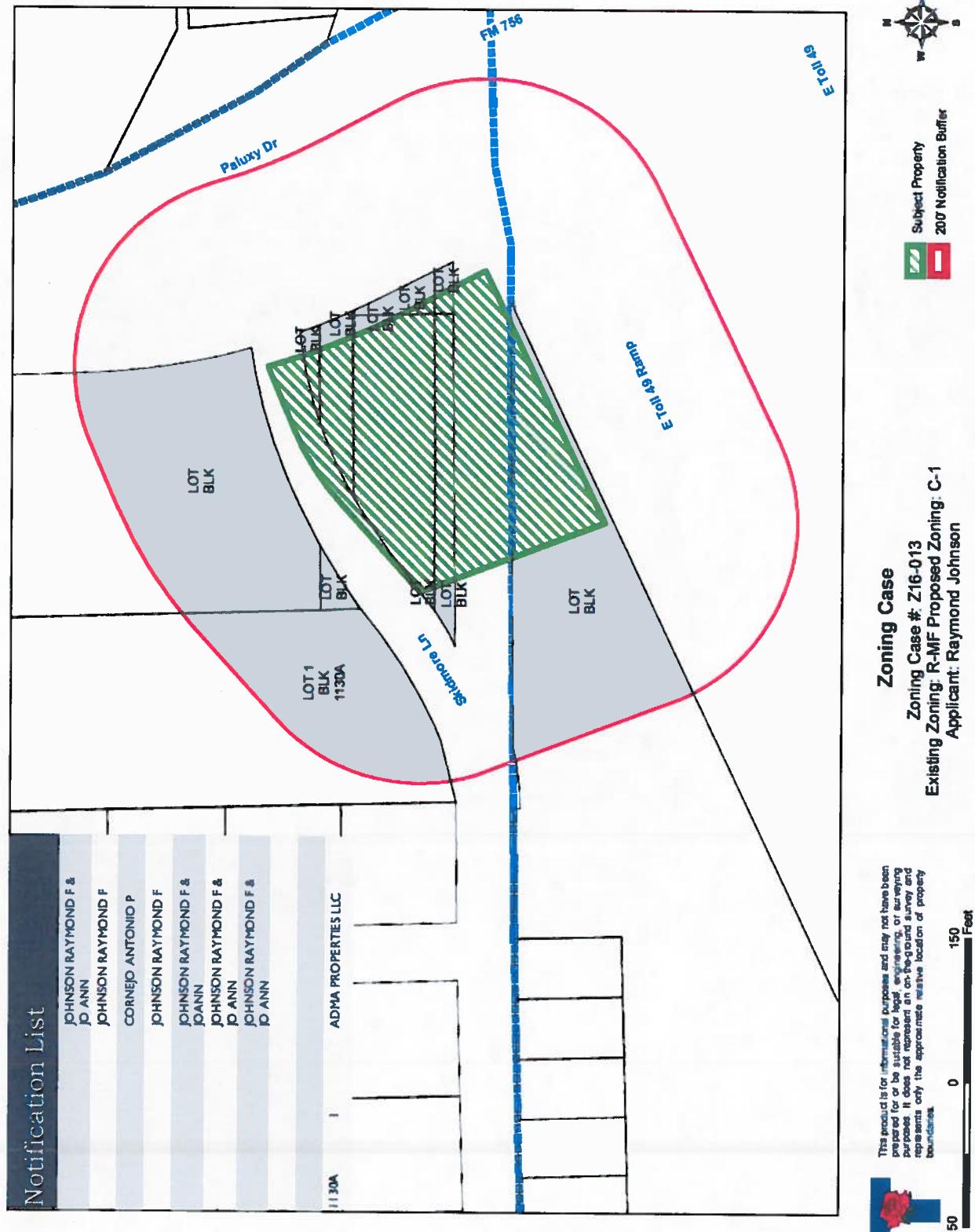
ORDINANCE NO. O-2016-83  
EXHIBIT "B"  
LOCATION MAP



ORDINANCE NO. O-2016-83  
 EXHIBIT "C"  
 TYLER 1<sup>ST</sup> FUTURE LAND USE GUIDE



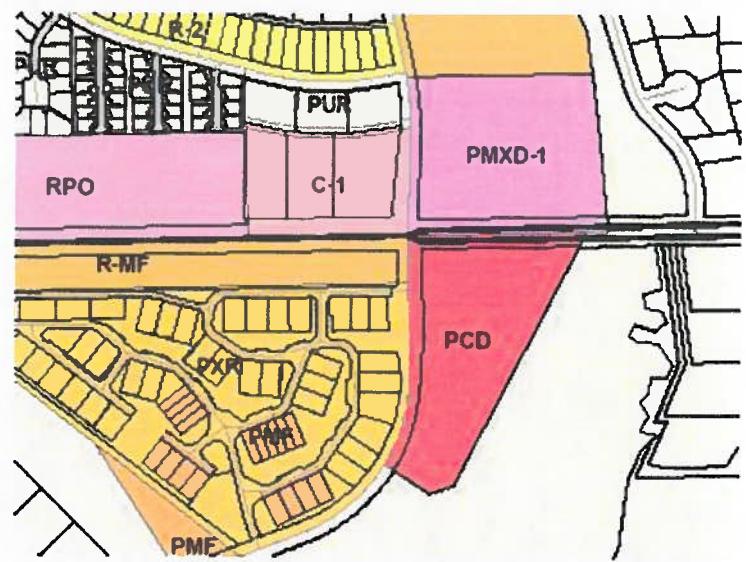
**ORDINANCE NO. O-2016-83**  
**EXHIBIT "D"**  
**NOTIFICATION MAP**



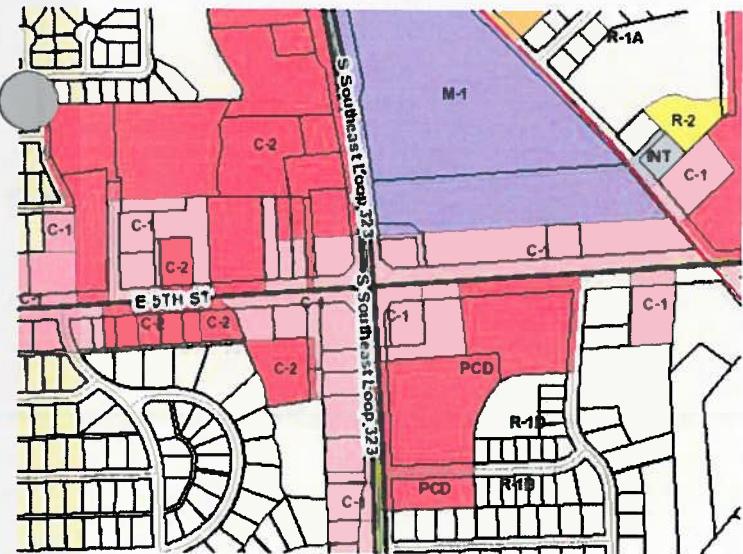
**ORDINANCE NO. O-2016-83**  
**EXHIBIT "E"**  
**INTERSECTION COMPARISON**



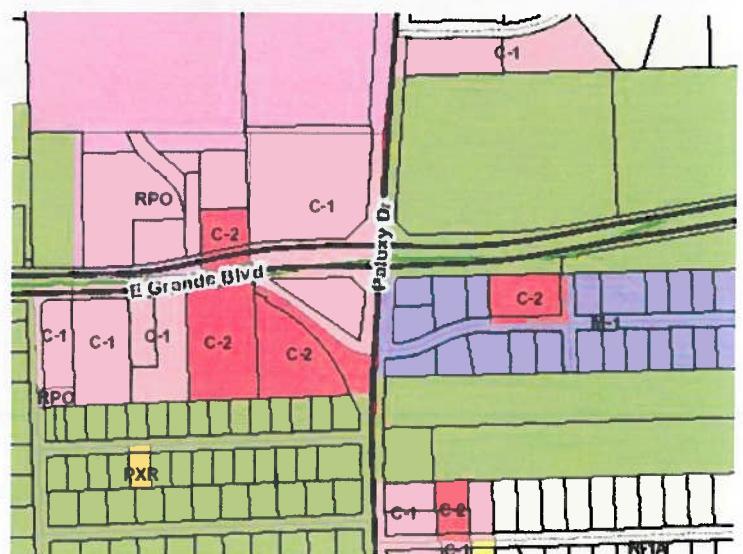
Paluxy Drive and Shiloh Road



West Grande Boulevard and Hollytree Drive

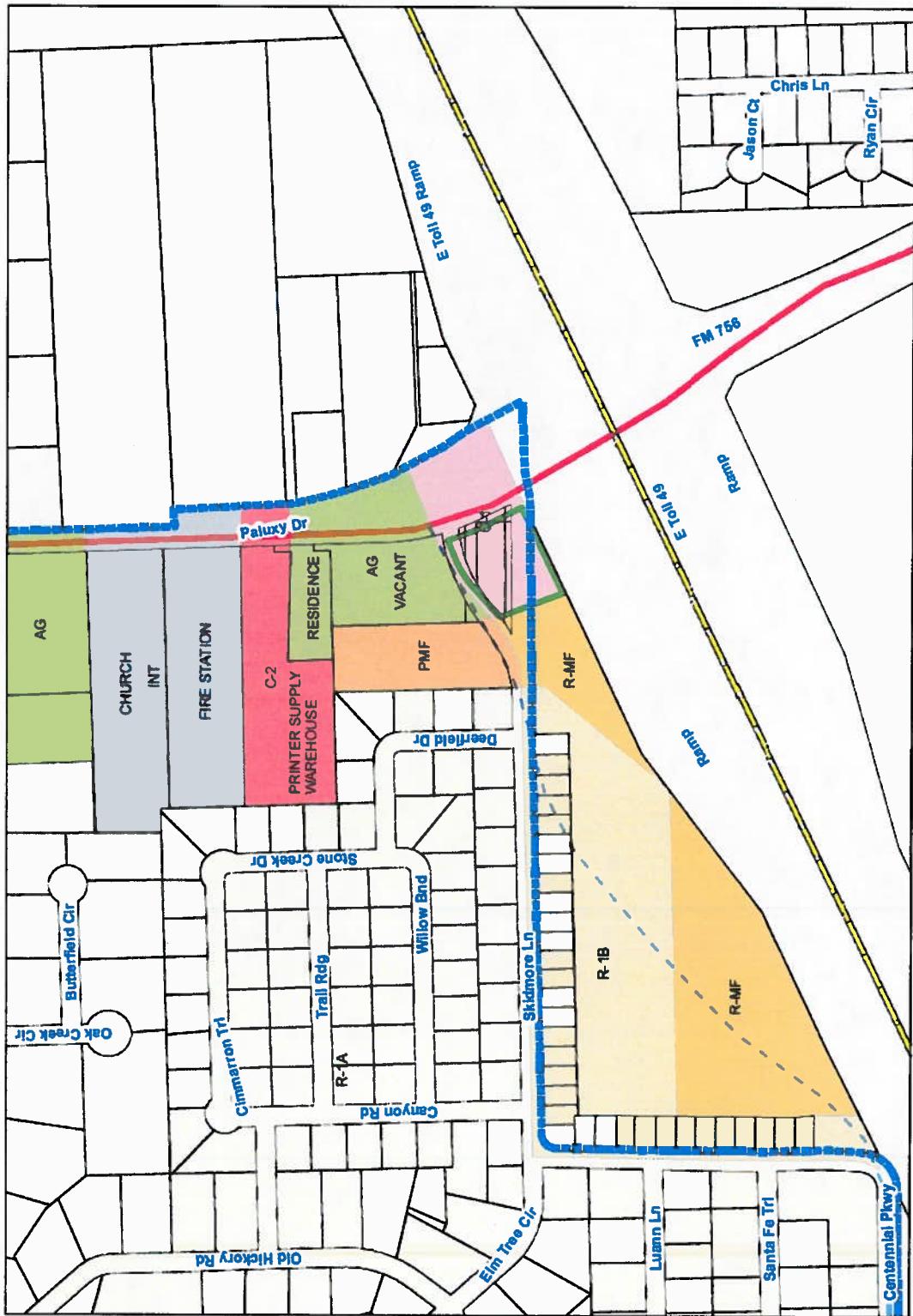


South Southeast Loop 323 and East 5<sup>th</sup> Street.



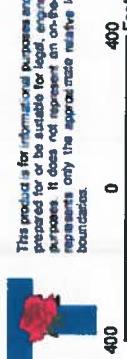
East Grande Boulevard and Paluxy Drive

**ORDINANCE NO. O-2016-83**  
**EXHIBIT "F"**  
**CURRENT LAND USE AND ZONING**



**Zoning Case**  
**Zoning Case #:** Z16-013  
**Existing Zoning:** R-MF  
**Proposed Zoning:** C-1  
**Applicant:** Raymond Johnson

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 information made relative location of property boundaries.



**Legend:**

- City Limits:** Blue line
- Subject Property:** Green line

## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

THE STATE OF TEXAS

§

KNOW ALL BY THESE PRESENTS:

COUNTY OF SMITH

§

This Declaration of Covenants, Conditions, and Restrictions is made on September 26, 2016, at Tyler, Texas, by RAYMOND JOHNSON, hereinafter referred to as "JOHNSON" whose mailing address is P.O. Box 6713, Tyler, Texas 75711.

JOHNSON is the owner of all that certain real property, hereinafter referred to as the "Property", located in Smith County, Texas, and being more particularly described in Exhibit "A" attached hereto and made a part hereof.

JOHNSON has devised a general plan for the entire Property as a whole. The general plan provides a common scheme of development designed to protect and safeguard the Property over a long period.

This general plan will benefit the Property in general, JOHNSON, and each successive owner of an interest in the Property.

Therefore, in accordance with both the doctrines of restrictive covenant and implied equitable servitude, JOHNSON desires to restrict the Property according to these covenants, conditions, and restrictions in furtherance of this general development plan.

NOW, THEREFORE, it is declared that all of the Property shall be held, sold, and conveyed subject to the following covenants, conditions and restrictions:

1. No multi-family dwelling shall be erected or permitted on the Property greater in size than a 4-plex. Thus, the only multi-family dwellings which will be allowed on the Property are duplexes, 3-plexes and 4-plexes.
2. Access to any multi-family dwelling situated on the Property shall be limited to first floor access. Access to any floor above the first floor is prohibited.
3. No more than nine (9) multi-family dwellings shall be constructed on one (1) contiguous acre of land.

JOHNSON or any owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions and restrictions imposed by this Declaration. Failure to enforce any covenant or restrictions shall not be deemed a waiver of the right

of enforcement whether with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

These covenants, conditions and restrictions are for the purpose of protecting the value and desirability of the Property. Consequently, they shall run with the real property and shall be binding on all parties having any right, title or interest in the Property, in whole or in part, and their heirs, successors and assigns. These covenants, conditions, and restrictions shall be for the benefit of the Property and each owner.

If any controversy, claim, or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees, and costs.

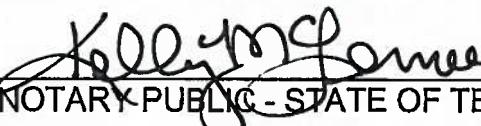
This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Property.



RAYMOND JOHNSON

THE STATE OF TEXAS §  
COUNTY OF SMITH §

This instrument was acknowledged before me on the 26<sup>th</sup> day of September, 2016, by RAYMOND JOHNSON.



NOTARY PUBLIC - STATE OF TEXAS

After recording return to:

Raymond Johnson  
P.O. Box 6713  
Tyler, Texas 75711



## EXHIBIT "A"



- Surveying
- Mapping
- Planning

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### 5.631 Acre Tract Drury Smith Survey, Abstract No. 927

**Being a 5.631 acre tract of land situated in the Drury Smith Survey, Abstract No. 927 and being part of a called 24.82 acre tract of land described in a Deed from Neal Adams Pock to Raymond Johnson recorded in Volume 7277, Page 857 of the Official Public Records of Smith County, Texas, said 5.631 acre tract being more completely described as follows:**

Beginning at a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set in the proposed North right of way line of Centennial Parkway, (proposed 60.00-foot wide right of way), from which a 1/2" iron rod found for the Southwest corner of said 24.82 acre tract bears South 48 degrees 54 minutes 21 seconds West, a distance of 225.18 feet, said 1/2" iron rod found also being in the North right of way line of Loop 49, (variable width right of way);

Thence North 05 degrees 52 minutes 07 seconds West, a distance of 112.47 feet to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

Thence North 00 degrees 22 minutes 27 seconds East, a distance of 371.86 feet to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

Thence South 89 degrees 37 minutes 33 seconds East, a distance of 54.36 feet to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

Thence North 86 degrees 45 minutes 44 seconds East, a distance of 356.79 feet to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

Thence North 88 degrees 22 minutes 53 seconds East, a distance of 481.74 feet to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set in the aforementioned proposed North right of way line of Centennial Parkway;

Thence South 52 degrees 35 minutes 26 seconds West, a distance of 336.04 feet along said proposed North right of way line of Centennial Parkway to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set at the beginning of a curve in a clockwise direction;

Thence along said proposed North right of way line of Centennial Parkway and along said curve having a delta of 11 degrees 46 minutes 06 seconds, a radius of 740.00 feet, an arc length of 151.99 feet, a chord bearing of South 58 degrees 28 minutes 29 seconds West, and a chord distance of 151.73 feet to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

**Thence South 64 degrees 21 minutes 32 seconds West, a distance of 539.97 feet continuing along said proposed North right of way line of Centennial Parkway to the place of beginning containing 5.631 acres of land.**

**1.361 Acre Tract**

**Robert Bartlett Survey, Abstract No. 129**  
**& Drury Smith Survey, Abstract No. 927**

**Being a 1.361 acre tract of land situated in the Robert Bartlett Survey, Abstract No. 129 and the Drury Smith Survey, Abstract No. 927 and being part of a called 1.118 acre tract of land described in a Deed from Porter Skidmore and wife, Eloise Skidmore to Raymond Johnson recorded in Volume 2208, Page 505 of the Land Records of Smith County, Texas, and part of a called 24.82 acre tract of land described in a Deed from Neal Adams Pock to Raymond Johnson recorded in Volume 7277, Page 857 of the Official Public Records of Smith County, Texas, said 1.361 acre tract being more completely described as follows:**

**Beginning at a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set in the North right of way line of Loop 49, (variable width right of way), and the South boundary line of said 24.82 acre tract from which a Texas Department of Transportation Type II, (brass disc in concrete flush with ground), Right of Way Monument found for the Southeast corner of said 24.82 acre tract bears North 64 degrees 21 minutes 32 seconds East, a distance of 294.62 feet, said right of way monument found also being at the intersection of the West right of way line of Farm to Market Highway No. 756, (variable width right of way), with said North right of way line of Loop 49;**

**Thence South 64 degrees 21 minutes 32 seconds West, a distance of 543.70 feet along the South boundary line of said 24.82 acre tract and the North right of way line of said Loop 49 to a Texas Department of Transportation Type II Right of Way Monument found;**

**Thence South 52 degrees 35 minutes 26 seconds West, a distance of 56.59 feet continuing along said South boundary line and said North right of way line to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set in the proposed South right of way line of Centennial Parkway, (proposed 60.00-foot wide right of way), same also being at the beginning of a curve in a counterclockwise direction;**

**Thence along said proposed South right of way line of Centennial Parkway and along said curve having a delta of 11 degrees 32 minutes 23 seconds, a radius of 560.00 feet, an arc length of 112.79 feet, a chord bearing of North 46 degrees 49 minutes 15 seconds East, and a chord distance of 112.60 feet to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;**

**Thence North 41 degrees 03 minutes 03 seconds East, a distance of 226.80 feet continuing along said proposed South right of way line of Centennial Parkway to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set at the beginning of a curve in a clockwise direction;**

Thence continuing along said proposed South right of way line of Centennial Parkway and along said curve having a delta of 06 degrees 54 minutes 47 seconds, a radius of 500.00 feet, an arc length of 60.33 feet, a chord bearing of North 44 degrees 30 minutes 26 seconds East, and a chord distance of 60.29 feet to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

Thence North 47 degrees 57 minutes 50 seconds East, a distance of 236.34 feet continuing along said proposed South right of way line of Centennial Parkway to a Texas Department of Transportation Type II Right of Way Monument found in the South right of way line of Skidmore Lane, same being said proposed South right of way of Centennial Parkway;

Thence South 25 degrees 38 minutes 28 seconds East, a distance of 199.31 feet to the place of beginning containing 1.361 acres of land.

Filed for Record in  
Smith County, Texas  
10/11/2016 9:59:15 AM  
Fee: \$45.00  
20160100041191  
RESTRICTION  
Deputy -Alma Delgado  
I hereby certify that this  
instrument was filed and duly  
recorded in the Official Public  
Records of Smith County, Texas

  
Karen Phillips  
County Clerk

