

**ORDINANCE NO. O-2015-8**

**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 A12-14-001; CONSTITUTING APPROXIMATELY 4.37 ACRES OF LAND AS DESCRIBED BY A METES AND BOUNDS DESCRIPTION, LOCATED ADJACENT TO THE PRESENT WESTERN BOUNDARY LIMITS OF THE CITY OF TYLER, AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE CITY OF TYLER EXTRATERRITORIAL JURISDICTION; ADJUSTING THE BOUNDARY OF THE CITY COUNCIL DISTRICT #2; PROVIDING FOR ORIGINAL ZONING; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, a public hearing was held before the City Council of the City of Tyler, Texas, on the 14<sup>th</sup> of January, 2015, 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 4.37 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" 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 4.37 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 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 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 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 14th day of January A. D., 2015.

  
MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

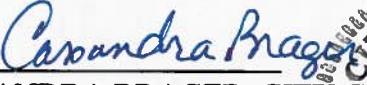
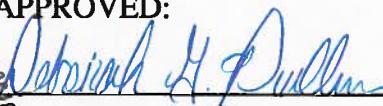
  
CASSANDRA BRAGER, CITY CLERK

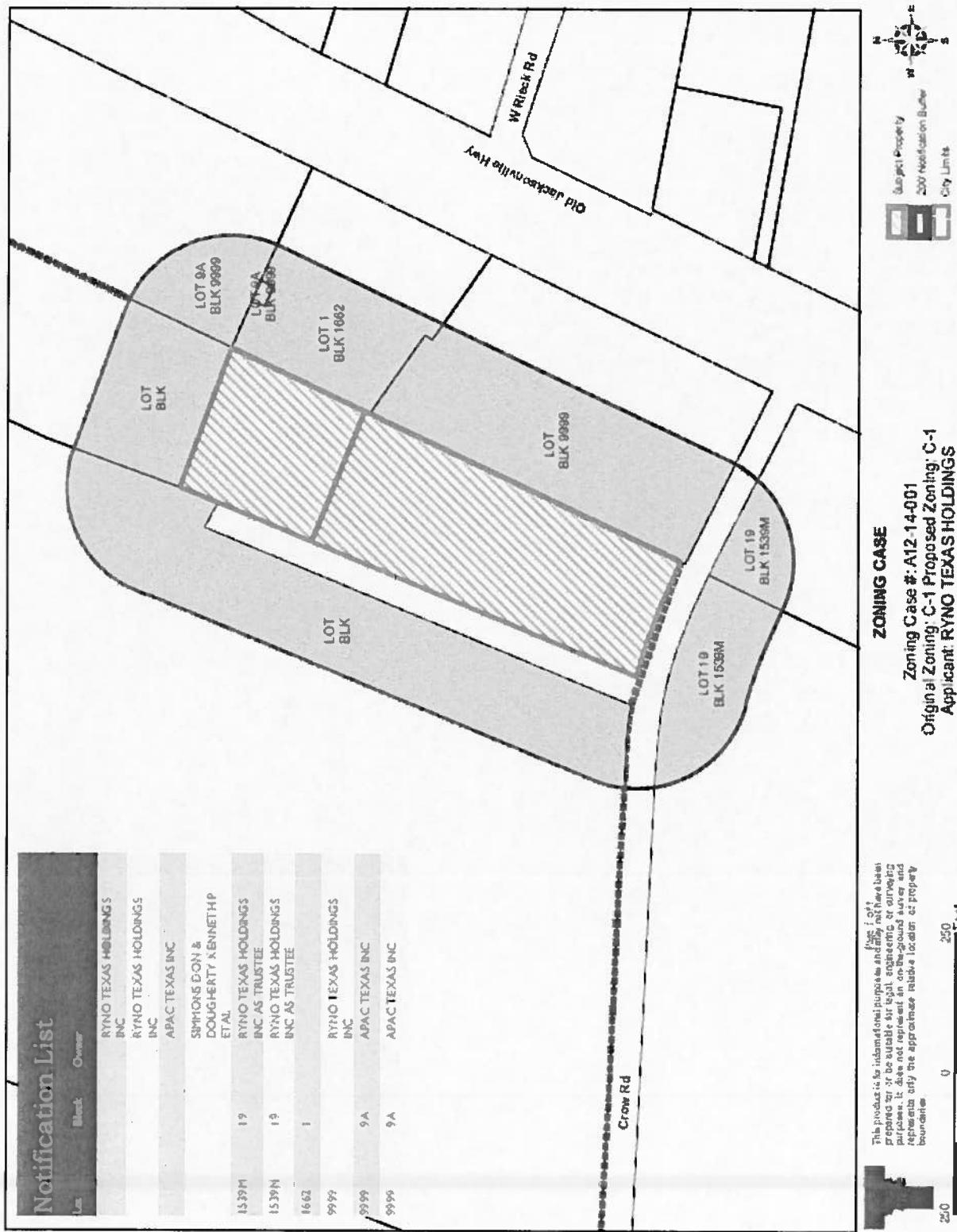
Exhibit A = map  
Exhibit B = legal description  
Exhibit C = owner petition  
Exhibit D = zoning map

APPROVED:

  
DEBORAH G. PULLUM,  
CITY ATTORNEY



**ORDINANCE NO. 0-2015-8  
EXHIBIT "A"  
MAP**



**ORDINANCE NO. 0-2015-8  
EXHIBIT "B"  
LEGAL DESCRIPTION**



4.369 Acre City Limit Annexation  
5555 Old Jacksonville Highway (FM 2493)  
Tyler, Texas 75703

2026 Republic Drive, Suite B  
Tyler, Texas 75701  
P.O. Box 9505  
Tyler, Texas 75711  
Phone: 903.509.2030  
Fax: 903.509.2034  
T.B.P.L.S. FIRM NO.: 10133500

Job No: 14-110224

All that certain lot, tract or parcel of land being part of the Marshall University Survey, Abstract No. 624, Smith County, Texas, and being part of Tract One, a called 10.883 acre tract, and being part of Tract Two, a called 2.196 acre tract of land described in Deed from Joe C. Moore and wife, Damaris M. Moore to Ryno Texas Holdings, Inc., recorded in Instrument Number 2010-R00038041 of the Official Public Records of Smith County, Texas, and being part of a called 178.55 acre tract of land described in Deed from MSJ Properties, Ltd., Tradd Street, LLC, Richard Lilly, Edward G.R. Bennett, Adelalda U. Bennett, Edward G. Lilly, Jr., Craig M. Bennett, Jr. and Sandra S. Bennett to Ryno Texas Holdings Inc., recorded in Instrument Number 2008-R0012815 of the Official Public Records of Smith County, Texas, and this 4.369 acre tract being more completely described as follows:

**BEGINNING** at a 3/8" Iron Rod found, in a 30" Hackberry tree, for the Northwest corner of said called 2.196 acre tract of land, same being the Southwest corner of a called 16.038 acre tract described in Deed from Moore Asphalt Company, Inc. to Armor Acquisition, Inc., recorded in Instrument Number 2007-R00016918 of the Official Public Records of Smith County, Texas, same being located in the East boundary line of a called 80.317 acre tract of land described Deed from Hilton Hitt to Kenneth P. Dougherty et al, recorded in Instrument Number 2006-R00058769 of the Official Public Records of Smith County, Texas, from which a 1/2" Iron Rod found for the Northwest corner of said called 16.038 acre tract of land bears North 24 deg. 14 min. 11 sec. East a distance of 991.32 feet;

**THENCE** South 73 deg. 44 min. 54 sec. East, with the North boundary line of said called 2.196 acre tract of land, a distance of 228.39 feet to a point for corner in the West line of the Annexation dated December 10, 1982, from which a 1/2" Iron Rod found (with red plastic cap marked "ARTHUR 5933") for the Northwest corner of Lot 1, New City Block 1662 of West Village North Phase 1, recorded in Cabinet E on Slide 299-B of the Plat Records of Smith County, Texas, bears South 73 deg. 44 min. 54 sec. East a distance of 29.05 feet;

**THENCE** South 25 deg. 11 min. 02 sec. West, along the West line of the Annexation dated December 10, 1982, a distance of 945.34 feet to a point for corner, 34.37 feet South 25 deg. 11 min. 02 sec. West of the intersection of the West line of the Annexation dated December 10, 1982 and the South boundary line of said called 10.883 acre tract of land, same being the North boundary line of said called 178.55 acre tract of land, at a Northeast corner of the Annexation in Ordinance Number 0-96-49 dated June 19, 1996;

**THENCE** North 55 deg. 21 min. 19 sec. West, along the North line of the Annexation in Ordinance Number 0-96-49 dated June 19, 1996, a distance of 194.46 feet to 1/2" Iron Rod found near the intersection of County Road 159 (Crow Road) and the abandoned County Road 1212, same being the Southwest corner of said called 10.883 acre tract of land and an angle break in the North boundary line of said called 178.55 acre tract of land, also being the Southeast corner of said called 80.317 acre tract of land;

**THENCE** North 22 deg. 58 min. 41 sec. East, along the West boundary line of said called 10.883 acre tract of land and the East boundary line of said called 80.317 acre tract of land, at a distance of 638.45 feet passing a 1/2" Iron Rod for the most Westerly Northwest corner of said called 10.883 acre tract of land and the Southwest corner of said called 2.196 acre tract of land, and continuing along the West boundary line of said called 2.196 acre tract of land a total distance of 878.56 feet to **PLACE OF BEGINNING AND CONTAINING 4.369 ACRES OF LAND.**

The bearings hereon were oriented to agree with the Deed Record call along the monumented East boundary line of a called 178.55 acre tract of land described in Instrument Number 2008-R0012815 of the Official Public Records of Smith County, Texas.

I, Daniel R. Arthur, do hereby state that the above field notes were prepared from a survey made under my supervision during the months of June, 2010 and September, 2014.

**GIVEN UNDER MY HAND AND SEAL, this 18<sup>th</sup> day of November, 2014.**

  
Daniel R. Arthur  
Registered Professional Land Surveyor  
State of Texas No. 5933

See Map No.: 14-110224 prepared in conjunction with these field notes.



ORDINANCE NO. 0-2015-8  
EXHIBIT "C"  
OWNER PETITION

Page 1 of 7



RECEIVED: 10-29-14  
REFERRAL NO.: \_\_\_\_\_

APPLICATION NO. A 12-14-001

**INFORMATION FOR COMPLETING FORMS 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: Please see Chapter 10, Section 10-776, Fees, in the Unified Development Code)

\*\*\*\*\*

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 and third 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 December, 2, PLANNING AND ZONING COMMISSION MEETING WILL BE October, 27, 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.

RECEIVED  
OCT 29 2014

PLANNING DEPARTMENT

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

FORM A

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

The undersigned owners of the hereinabove 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

PRINT NAME

10-29-14  
DATE

**(ACKNOWLEDGMENT)**

THE STATE OF Texas  
COUNTY OF Smith

This petition was acknowledged before me on the 25th day of October,  
2014 by Brandon T. Steele.

  
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.

10/24  
SIGNATURE

Brandon T Steele  
PRINT NAME

DATE  
10/24

SIGNATURE

PRINT NAME

DATE

(ACKNOWLEDGMENT)

THE STATE OF Texas  
COUNTY OF Smith

This petition was acknowledged before me on the 28<sup>th</sup> day of October,  
2014, by Brandon T Steele.

  
Notary Public  
State of Texas

(ACKNOWLEDGMENT)

THE STATE OF Texas  
COUNTY OF Smith

This petition was acknowledged before me on the 28<sup>th</sup> day of October,  
2014, by Brandon T Steele.

  
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):

General Commercial Development

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

Requirements of the U.D.C.

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

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)

We are extending Water & Sewer to the property.

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

903-534-9155  
Owner's Telephone Number

SIGNED:

\_\_\_\_\_  
OWNER (of property to be annexed)

OR

903-534-5353  
Agent's Telephone Number

Ed Snodgrass  
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. <u>Ryno Texas Holdings, Inc.</u>	<u>P.O. Box 132569 Tyler, Tx 75713</u>
2. _____	
3. _____	
4. _____	
5. _____	
6. _____	
7. _____	
8. _____	
9. _____	
10. _____	
11. _____	
12. _____	
13. _____	
14. _____	
15. _____	
16. _____	
17. _____	
18. _____	
19. _____	
20. _____	

**FORM D**

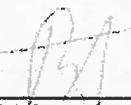
**LIST OF NAMES OF ALL QUALIFIED VOTERS RESIDING IN THE AREA**

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 therefore qualified to register to vote.

<u>NAME AND AGE</u>	<u>MAILING ADDRESS</u>
1. <u>None</u>	
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) Ed Snoderass  
2026-15 Republic Drive, 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. P.O. Box 132569 Tyler, TX 75713

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

6. \_\_\_\_\_

7. \_\_\_\_\_

8. \_\_\_\_\_

9. \_\_\_\_\_

10. \_\_\_\_\_

11. \_\_\_\_\_

12. \_\_\_\_\_

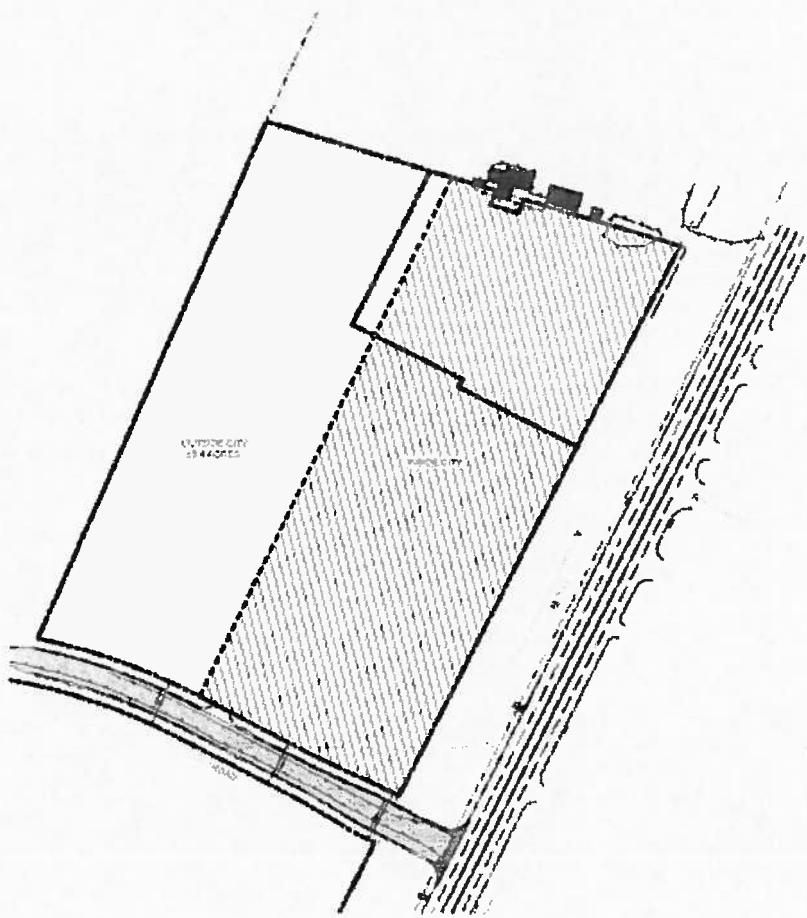
13. \_\_\_\_\_

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 F



**FORM G**

**PETITION FOR ORIGINAL ZONING OF SPARSELY OCCUPIED AREA TO BE ANNEALED**

**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-2. 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. 0-2015-8**  
**EXHIBIT "D"**  
**ZONING MAP**

