

ORDINANCE NO. O-2013-65

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 A08-13-003; CONSTITUTING APPROXIMATELY 42.06 ACRES OF LAND AS DESCRIBED BY A METES AND BOUNDS DESCRIPTION, LOCATED ADJACENT TO THE PRESENT EASTERN 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 #4; ESTABLISHING THE INITIAL LAND USE DESIGNATION; 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 28th day of August, 2013, 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 42.06 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 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 42.06 acres for "C-2", General Commercial District as shown on Exhibit "D", hereinabove mentioned.

PART 5: That the initial Land Use Designation for the annexed area is hereby established as General Commercial, 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 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: 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 28th day of August A. D., 2013.



BARBARA BASS, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK



APPROVED:


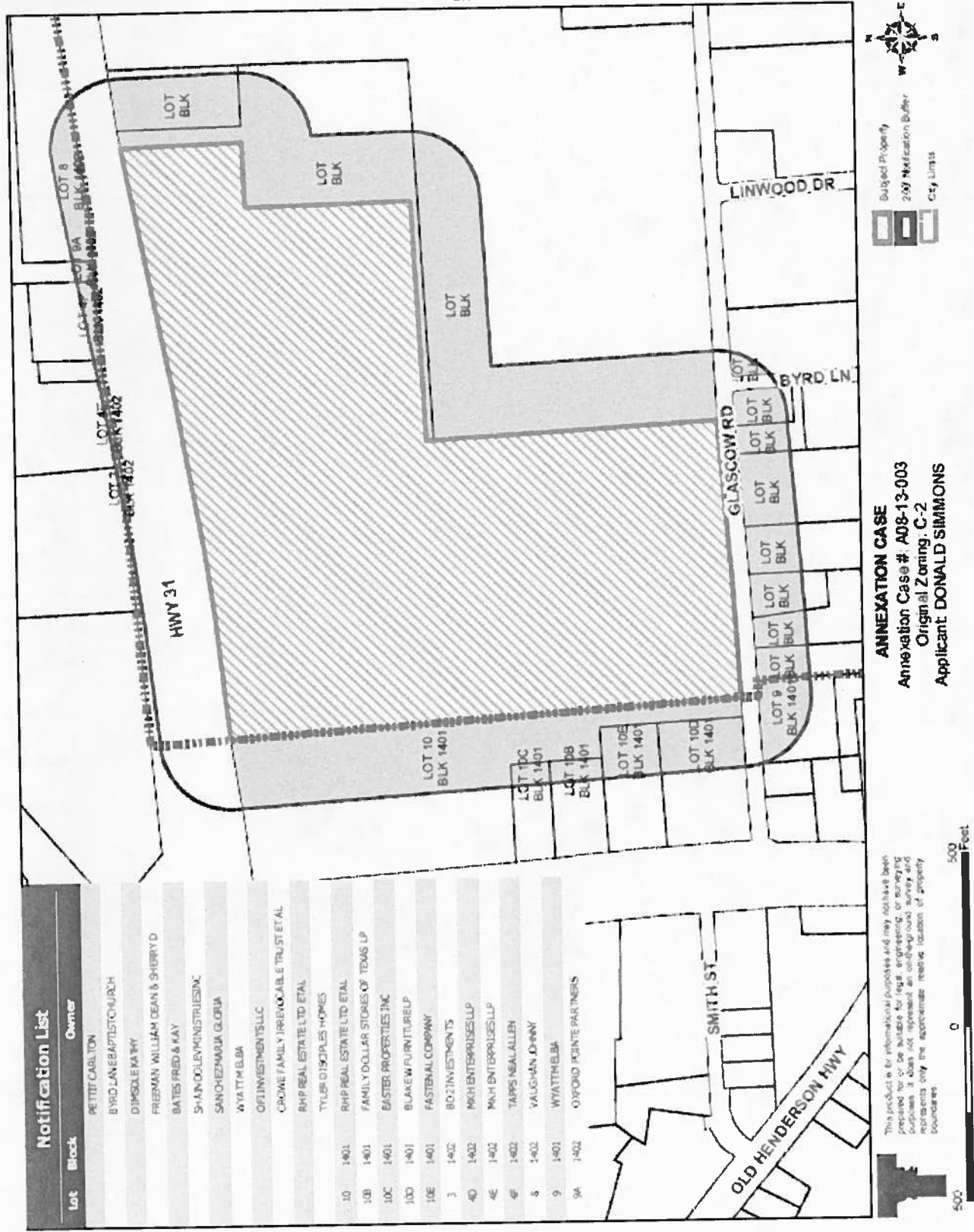

DEBORAH G. PULLUM,
CITY ATTORNEY

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

ORDINANCE NO. 0-2013-65 EXHIBIT "A" MAP



ORDINANCE NO. 0-2013-65
EXHIBIT "B"
LEGAL DESCRIPTION

METES AND BOUNDS DESCRIPTION
42.055 ACRES

All that certain tract or parcel containing 42.055 acres of land in the McDonald Lawrence Survey, A-617, Smith County, Texas, being a portion of a tract which was called 92.444 acres and conveyed from The Frost National Bank, et al, to RHP Real Estate, Ltd., et al, by an instrument of record in Volume 4603, Page 292, of the Smith County Official Public Record, (SCOPR), said 42.055 acres being more particularly described by Metes and Bounds as follows, basing bearings on the Texas Coordinate System of 1983, (NAD 83) North Central Zone, to wit:

COMMENCING at a 1/2" iron rod found for a northwest corner of said 92.444 acre tract, lying in the intersection of east right of way (R-O-W) line of Loop #323 (Loop 323) and south R-O-W line of State Highway #31 (SH 31);

THENCE departing Loop 323, N39°12'50"E, 76.15 feet along the south R-O-W line of SH 31 to a 5/8" iron rod set for a northwest corner of said 92.444 acre tract;

THENCE N81°22'57"E, 346.71 feet continuing along the south R-O-W line of SH 31 to a point for northwest corner and PLACE OF BEGINNING of the tract herein described;

THENCE N81°22'57"E, 1,188.66 feet continuing along the south R-O-W line of SH 31 to a Type I TxDOT concrete R-O-W monument found for angle point;

THENCE N78°39'18"E, 575.94 feet continuing along the south R-O-W line of SH 31 to a 1/2" iron rod found for northeast corner, being the northwest corner of a tract which was called Lot 10-G and conveyed from RHP Real Estate, Ltd., et al, to Tyler Disciples Homes, by an instrument of record in Clerks File #2007-R00047445, SCOPR;

THENCE, departing SH 31, S01°32'51"E, 333.39 feet along a west line of said Lot 10-G to a 1/2" iron rod found for a southeast corner, being an interior corner of said Lot 10-G;

THENCE S88°24'32"W, 186.37 feet along a north line of said Lot 10-G to a 1/2" iron rod found for an interior corner, being a northwest corner of said Lot 10-G;

THENCE S01°29'04"E, 485.21 feet along a west line of said Lot 10-G to a 1/2" iron rod found for a southeast corner, being an interior corner of said Lot 10-G;

THENCE S87°02'50"W, 692.74 feet along a north line of said Lot 10-G to a 1/2" iron rod found for interior corner, being the most westerly northwest corner of said Lot 10-G;

THENCE S02°54'23"E, along the west line of said Lot 10-G at 20.00 feet pass a 1/2" iron rod found for southwest corner of said Lot 10-G and northwest corner of a tract which was called

30.183 acres and conveyed from W2001 MHL Realty, L.L.C., to OFI Investments, LLC., by an instrument of record in Clerks File #2004-R0051004, SCOPR, and continuing for a distance in all of 872.89 feet to a cotton spindle found for southeast corner, being the southwest corner of said 30.183 acre tract, lying in the south line of the aforementioned 92.444 acre tract, also lying in Glasgow Road;

THENCE S87°03'32"W, 803.84 feet along the south line of said 92.444 acre tract to a point for southwest corner, lying in Glasgow Road;

THENCE departing Glasgow Road, N02°44'31"W, crossing said 92.444 acre tract to a point at the beginning of a curve;

THENCE 579.72 feet continuing across said 92.444 acre tract along the arc of a curve to the left, (Delta= 03°02'03", Radius= 10,947.42 feet, Chord= N04°15'34"W, 579.65 feet), to a point of compound curve;

THENCE 168.41 feet continuing across said 92.444 acre tract along the arc of a curve to the left, (Delta= 00°54'33", Radius= 10,612.92 feet, Chord= N06°13'26"W, 168.41 feet), to a point for the end of curve;

THENCE N05°40'42"W, 552.68 feet continuing across said 92.444 acre tract to the PLACE OF BEGINNING, containing 42.055 acres of land, more or less.

**ORDINANCE NO. 0-2013-65
EXHIBIT "C"
OWNER PETITION**

Page 1 of 7



RECEIVED: _____
REFERRAL NO.: _____

APPLICATION NO. A08-13-003

**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 _____, _____, 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.

RECEIVED

JUN 28 2013

PLANNING DEPARTMENT



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:

See Attached Exhibit "A"

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

DATE

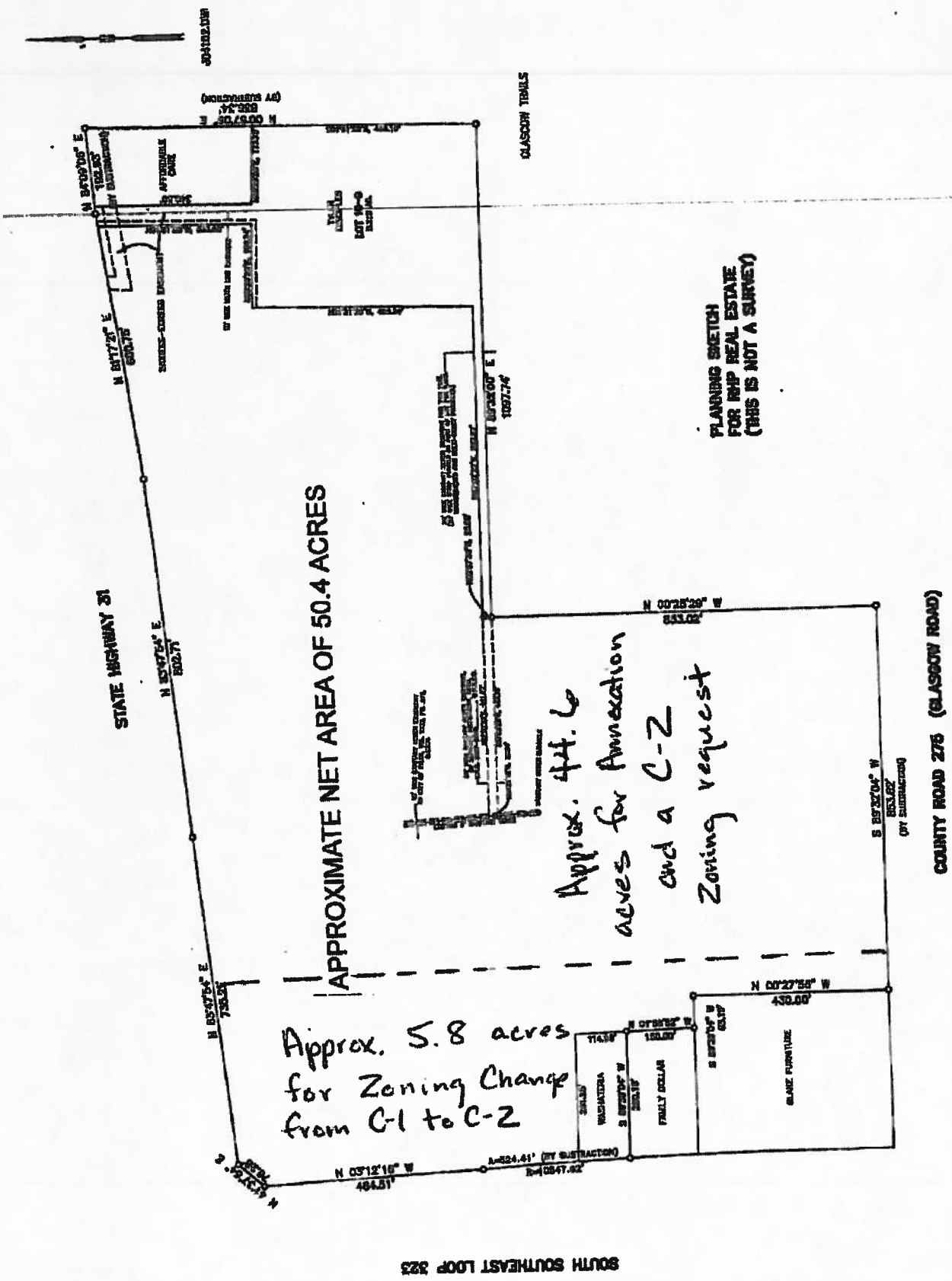
PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF
COUNTY OFLucas
Smith

This petition was acknowledged before me on the 27th day of June, 2013 by _____.

Notary Public
State of _____



STATE HIGHWAY 31

APPROXIMATE NET AREA OF 50.4 ACRES

Approx. 5.8 acres
for Zoning Change
from C-1 to C-2

Approx. 44.6
acres for Annexation
and a C-2
Zoning request

PLANNING SKETCH
FOR RHP REAL ESTATE
(THIS IS NOT A SURVEY)

COUNTY ROAD 276 (GLASGOW ROAD)

SOUTH SOUTHEAST LOOP 323



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.

SIGNATURE

DATE

PRINT NAME

SIGNATURE

DATE

PRINT NAME

(ACKNOWLEDGMENT)



THE STATE OF Texas
COUNTY OF Smith

This petition was acknowledged before me on the 27th day of June, 2013 by _____

Connie M. Stone
Notary Public
State of _____

(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 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 which will require
a C-2 zoning.

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

To accommodate the development of the approximate
50.4 acres denoted on Exhibit "A".

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

Vacant land

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 Exhibit.

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

We are excited about the opportunity to potentially provide
the eastern part of Tyler with new development and bring
goods and services to this area.

903.581.5858
Owner's Telephone Number

SIGNED:


OWNER (of property to be annexed)

OR

903 561-4950
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. Donald A. Simmons	8613 Radcliffe Drive, Tyler, TX, 75703
2. RHP Real Estate, Ltd.	1967 Highland Park Ct. Tyler, TX 75701
3. Warren V. Simmons	100 Independence Pl. #200 Tyler, TX 75701
4. Patterson Land Investments, Ltd.	1967 Highland Park Ct. Tyler, TX 75701
5. John A. King	1405 Sleepy Hollow Longview, TX 75604
6. MJL Thomas Investments, LLC	430 N Center Longview, TX 75601
7.	
8.	
9.	
10.	
11.	
12.	
13.	
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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:

[Signature]
Owner et al (of property to be annexed)

[Signature]
Agent (when applicable -- See Form E)



FORM E

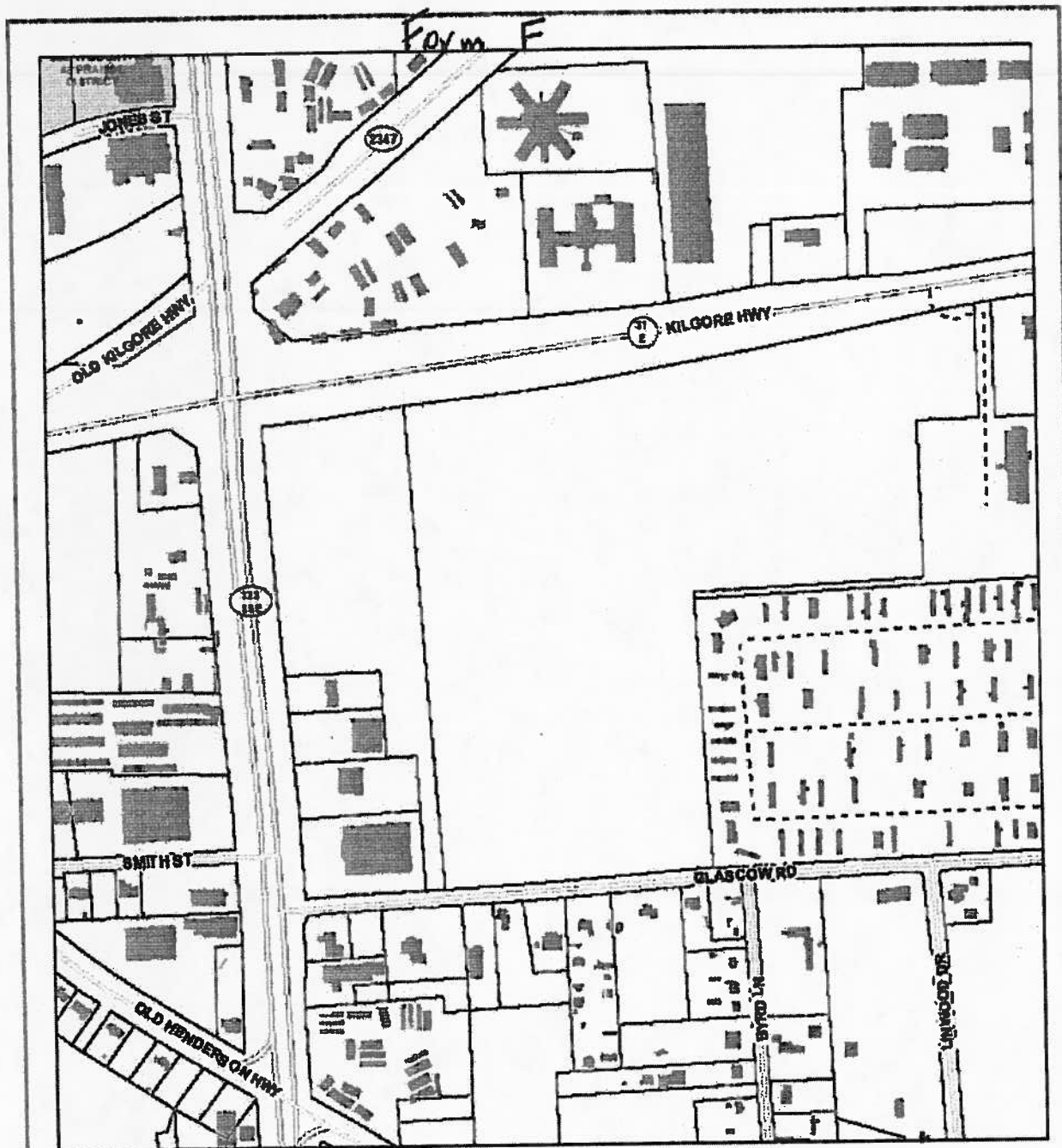
AUTHORIZATION OF AGENT

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) Mark Priestner,
3815 Old Bullard Road, 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>8613 Rockledge Drive, Tyler, TX 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".)



31 Loop Area Map

0 135 270 540 810 1,080 Feet



This map was prepared by the Smith County map site and may be revised without notification to any user. 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. The user is encouraged to check with the City of Tyler, SCAD, and the 911 Administration to verify that the map being used is the latest, most current one available. <http://www.smithcountymapsite.org/>



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-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.*

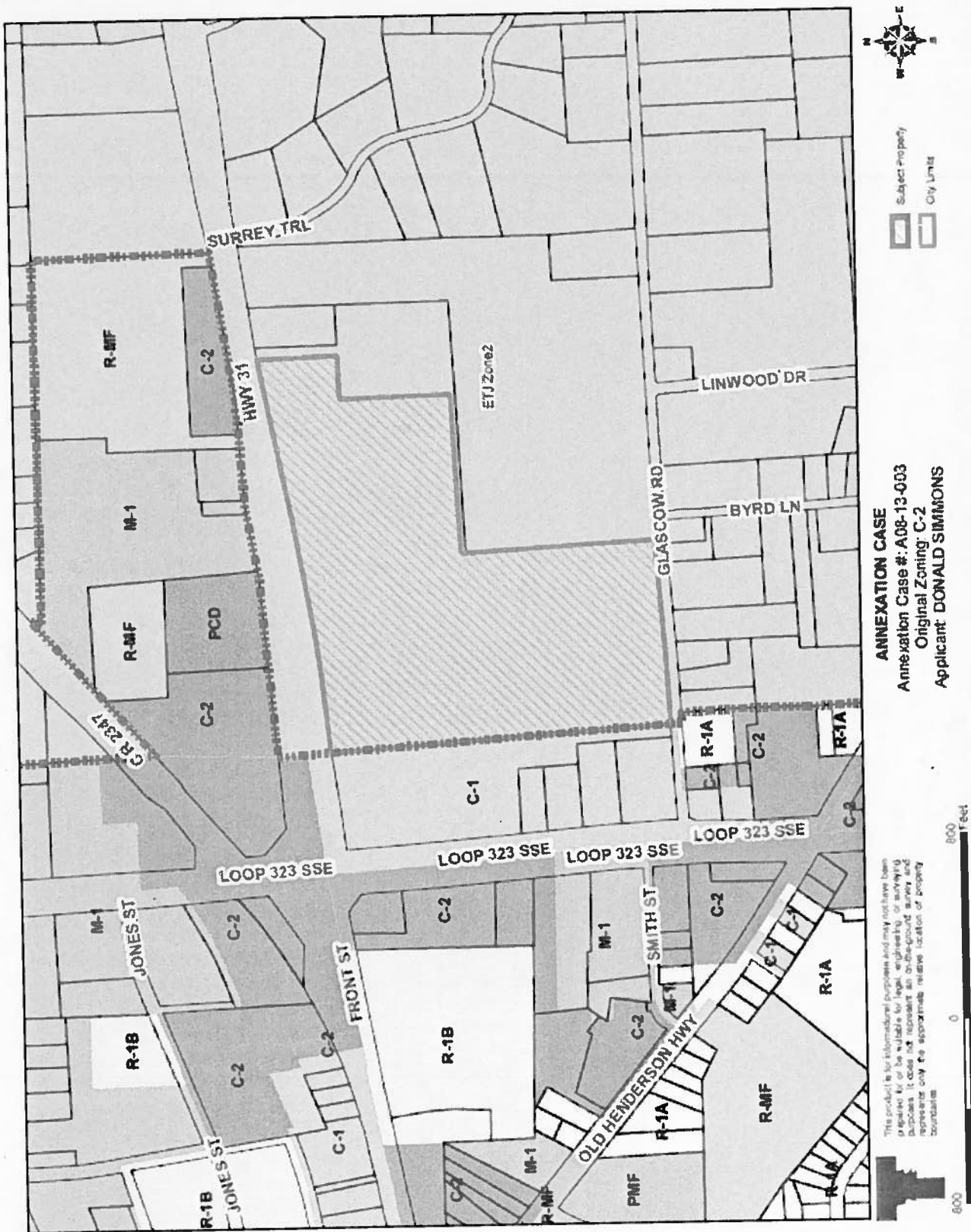
PROPERTY OWNERS' SIGNATURES

Donald L. Simon

[Signature]
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. 0-2013-65
EXHIBIT "D"
ZONING MAP**



ANNEXATION CASE
Annexation Case #: A08-13-003
Original Zoning: C-2
Applicant: DONALD SIMMONS

This product is for informational purposes and may not have been prepared by 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.