

ORDINANCE NO. O-2021-1

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 A20-003; CONSTITUTING APPROXIMATELY 5.84 ACRES OF LAND AS DESCRIBED BY A METES AND BOUNDS DESCRIPTION, LOCATED ADJACENT TO THE CITY OF TYLER ON ITS WESTERN, EASTERN AND SOUTHERN BOUNDARIES, AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE BOUNDARY OF THE CITY COUNCIL DISTRICT #4; AUTHORIZING THE CITY MANAGER TO SIGN A WRITTEN AGREEMENT FOR PROVISION OF CITY SERVICES PER TEXAS LOCAL GOVERNMENT CODE SECTION 43.0672; DIRECTING THE AMENDMENT OF THE FUTURE LAND USE GUIDE; ESTABLISHING ORIGINAL ZONING; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a public hearing was held before the City Council of the City of Tyler, Texas, on the 13th day of January, 2021, wherein all interested persons were provided an opportunity to be heard on the proposed voluntary annexation of the territory hereinafter described: A copy of the Texas Local Government Code Section 43.0671 petition is attached and made a part hereof as Exhibit "C"; and

WHEREAS, the area to be annexed is contiguous to the City of Tyler; 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 5.84 acres of land; and

WHEREAS, Texas Local Government Code Section 43.0671 states that a municipality may annex an area if each owner of the land in the area requests the annexation; and

WHEREAS, Texas Local Government Code Section 43.0672(a) states that the governing body of a municipality that elects to annex an area under Texas Local Government Code Chapter 43, Subchapter C-3, must first negotiate and enter into an agreement with the owners of the land in the area for the provision of services in the area; and

WHEREAS, the notice requirements of Texas Local Government Code Section 43.0673 have been met;

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 43.0671 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 is 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 for "NR", Neighborhood Residential District, hereinabove mentioned.

PART 5: That the Future Land Use Designation for the annexed area is hereby amended to reflect Single-Family Medium/High Density.

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 City Manager be authorized to sign an agreement of municipal services per Texas Local Government Code Section 43.0672.

PART 8: That the City Clerk 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 9: 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 10: 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 11: 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 12: 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 13th day of January A. D., 2021.



DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK

Exhibit A = location map
Exhibit B = metes and bounds description
Exhibit C = owner petition

APPROVED:

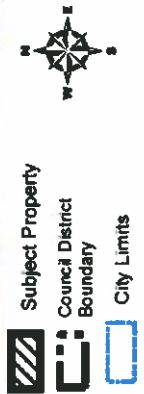
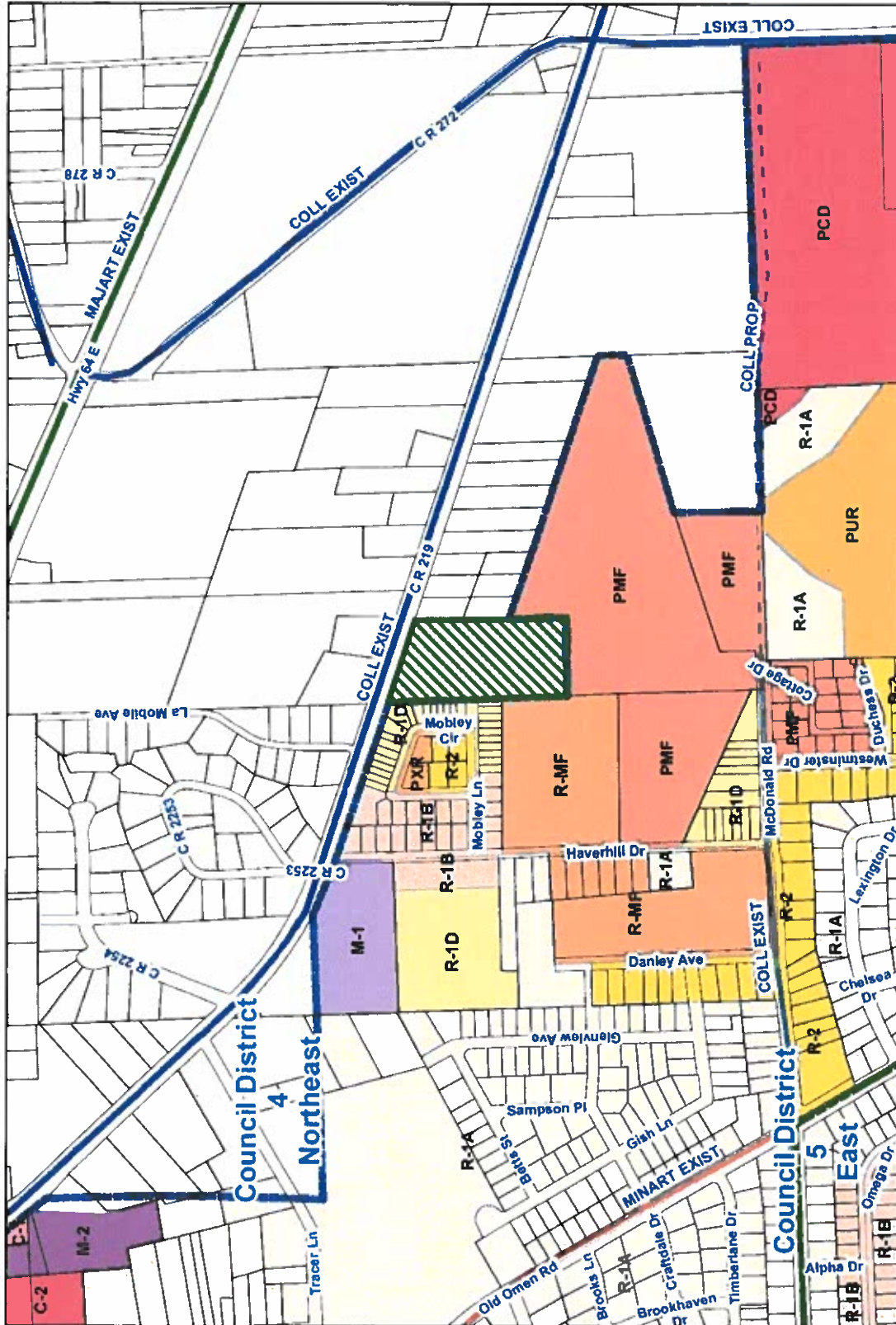


DEBORAH G. PULLUM,
CITY ATTORNEY



ORDINANCE NO. O-2021-1

EXHIBIT "A" LOCATION MAP



ZONING CASE
Zoning Case # A20-003
ANNEXATION
Applicant: Mobile Investments and Property Rentals LLC

This product is for informational purposes and may not have been prepared for legal, engineering, or surveying purposes. It does not represent a survey and represents only the approximate relative location of property boundaries.
550 0 550 Feet

ORDINANCE NO. O-2021-1
EXHIBIT "B"
METES AND BOUNDS DESCRIPTION

MARSHALL SPELL SURVEY, ABSTRACT NO. 888
SMITH COUNTY, TEXAS

BEING 5.840 acres of land situated in the Marshall Spell Survey, Abstract No. 888, Smith County, Texas, being part of that certain called 5.840 acre tract of land described in a warranty deed with vendor's lien from Brian P. Mosely, Successor Trustee of the Robert T. Mobley Trust dated March 12, 2009 to Mobile Investments and Property Rentals, LLC as recorded in Instrument No. 20170100025830 of the Official Public Records of Smith County, Texas, said 5.840 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at an axle (found) at the northwest corner of the above referenced 5.840 acre tract, same being the northeast corner of that certain Lot 25, New City Block 1548-H of University Heights, First Amendment as shown on the plat of same as recorded in Cabinet E, Slide 235-A of the Plat Records of Smith County, Texas, and being located in the south line of County Road No. 219, also known as Old Henderson Highway;

THENCE along the south line of the above mentioned road and the north line of the above referenced 5.840 acre tract, the following three (3) courses and distances, to wit:

South 72°01'16" East, for a distance of 314.54 feet, to an axle (found),

South 75°34'56" East, for a distance of 24.70 feet, to a concrete monument (found),

and South 68°38'49" East, for a distance of 40.55 feet, to a 1" iron pipe found at the northeast corner of said 5.840 acre tract, same being the northwest corner of that certain called 0.5069 of an acre tract of land described in a warranty deed to Thomas Ray Harden and Tamera Kay Harden as recorded in Volume 4923, Page 147 of the Official Public Records of Smith County, Texas;

THENCE South 00°41'17" East, for a distance of 411.10 feet, along the west line of the above mentioned 0.5069 of an acre tract and the west line of that certain called 0.482 of an acre tract of land described in a Texas general warranty deed to Thomas Ray Harden and Tamera Kay Harden as recorded in Instrument No. 20190100022497 of the Official Public Records of Smith County, Texas, and along the east line of said 5.840 acre tract, and partially with a fence, to a 1/2" iron rod (found) at the southwest corner of the above mentioned 0.482 of an acre tract, same being an angle point in the east line of said 5.840 acre tract and being the most northerly northwest corner of that certain Lot 1-A, New City Block 1445-E of Texas Student Housing Addition, First Amendment as shown on plat of same as recorded in Cabinet F, Slide 60-B of the Plat Records of Smith County, Texas;

THENCE South 02°38'32" East, for a distance of 251.73 feet, along the most northerly west line of the above mentioned Lot 1-A, New City Block 1445-E and the east line of said 5.840 acre tract, to a 1/2" iron rod with cap marked "HALO 5984" (set) for the southeast corner of same, same being an interior corner of said Lot 1-A;

THENCE South 88°28'20" West, for a distance of 347.24 feet, along the most westerly north line of said Lot 1-A and the south line of said 5.840 acre tract, to an axle (found) at the southwest corner of same, same being the most westerly northwest corner of said Lot 1-A and being located in the east line of Quail Valley Estates as shown on Amending Plat of same as recorded in Cabinet E, Slide 122-B of the Plat Records of Smith County, Texas;

THENCE North 02°17'48" West, for a distance of 286.98 feet, along the west line of said 5.840 acre tract and the east line of the above mentioned Quail Valley Estates, to a 1/2" iron rod (found) at the northeast corner of same, same being an angle point in the east line of said 5.840 acre tract, and being the southeast corner of that certain Lot 34, New City Block 1548-H of the above mentioned University Heights, First Amendment;

THENCE North 02°08'23" West, for a distance of 503.39 feet, along the east line of said University Heights and the west line of said 5.840 acre tract, back to the place of beginning and containing 5.840 acres of land.

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EXHIBIT "C"
OWNER PETITION



RECEIVED: _____
REFERRAL NO.: _____

APPLICATION NO. _____

**INFORMATION FOR COMPLETING FORMS REQUESTING ANNEXATION
FOR SPARSELY POPULATED AREAS**

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
- H.

(NOTE: Filing fee of \$250.00 (City code Sec. 10-1) must be received with annexation petition)

ALL ANNEXATION IS BY ORDINANCE, AND ONLY THE CITY COUNCIL HAS THE AUTHORITY TO MAKE OR 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 UNTIL 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 December, 1, PLANNING AND ZONING COMMISSION MEETING WILL BE October, 26, 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 LEGALLY THE PROPOSED ANNEXATION.



FORM A

REQUEST FOR ANNEXATION OF SPARSELY POPULATED AREAS
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), 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 populated 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 annexation on the date shown below.


SIGNATURE


Bryan Davis
PRINT NAME

10-21-2020
DATE

(ACKNOWLEDGMENT)

THE STATE OF TEXAS
COUNTY OF SMITH

This petition was acknowledged before me on the 21st day of October,
2020 by Bryan Davis.


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 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 annexation on the date shown below.

Bryan Davis
SIGNATURE
10-24-2020
DATE

Bryan Davis
PRINT NAME

SIGNATURE

DATE

PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF TEXAS
COUNTY OF SMITH

This petition was acknowledged before me on the 21st day of October,
2020 by Bryan Davis.

Deloresch Spence
Notary Public
State of TEXAS

(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 ANNEXATION REQUEST

Applicants should 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 utilize this property for the following purpose(s):

To construct phase 3 of the Mobley Addition (SUBDNUM 182510) that has been previously annexed. This phase will provide a neighborhood residential living area.

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

For the city to inspect and accept the addition of the City's water and sewer systems after completion of the project.

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

The present lot is vacant. Prior to being vacant, the property was used as a single family residency.

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)

The nearest location of city water and sewer is currently located at the end of Mobley Ln on phase 2 of Mobley Addition (SUBDNUM 182510), directly West of proposed annexation. There is currently a stub out of the city's water and sewer systems for future use within the proposed annexed property.

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

We are requesting the property be annexed into NR zoning.

SIGNED:

903-245-2947
Owner's Telephone Number

Brian Ross
OWNER (of property to be annexed)

OR

903-597-2122
Agent's Telephone Number

Alvin Pade
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. Mobile Investments & Property Rentals
- 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 therefor qualified to register to vote.

<u>NAME AND AGE</u>	<u>MAILING ADDRESS</u>
1. _____	_____
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) Brannon Corporation to act as our Agent in the matter of this annexation. The term "agent" shall mean any lessee, developer, option holder, or other authorized 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>T321 S. Broadway Ave., Tyler, TX, 75701</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".)



FORM G

PETITION FOR ORIGINAL ZONING OF THE 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) NR. 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.

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

[Signature]

[Signature]

Agent (When Applicable – See Form E)

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

