

**ORDINANCE NO. O-2021-52**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AUTHORIZING THE SALE OF BEER AND WINE FOR OFF-PREMISE CONSUMPTION FOR CERTAIN TERRITORY ANNEXED BY THE CITY OF TYLER, TEXAS PURSUANT TO AUTHORITY OF TEXAS ALCOHOLIC BEVERAGE CODE SECTION 251.725; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Tyler, Texas voted in favor of the legal sale of beer and wine for off-premise consumption on November 6, 2012; and

**WHEREAS**, the City of Tyler annexed the property shown on Exhibit "A" on June 9, 2021; and

**WHEREAS**, the property shown on Exhibit "A" is less than one percent of the total area covered by the City of Tyler, and

**WHEREAS**, all of the land in the annexed area is zoned for commercial use only; and

**WHEREAS**, the Applicant has provided evidence that the newly annexed area is not adjacent to residential, church or school property; and

**WHEREAS**, all conditions described in the Texas Alcoholic Beverage Code, Section 251.725 have been met.

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

**PART 1:** That the above findings are hereby found to be true and correct and are incorporated herein in their entirety.

**PART 2:** That the property shown on Exhibit "A" attached hereto and incorporated herein is hereby legally authorized for the sale of beer and wine for off-premise consumption upon approval of all applicable permits and licenses in accordance with local, State and Federal law, as applicable.

**PART 3:** That the terms and provisions of this Ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, or phrase of this Ordinance should be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this Ordinance, if the remaining provisions are otherwise in conformance with State law without the necessity of the section, subsection, sentence, clause or phrase declared invalid or unconstitutional.

**PART 4:** 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 9<sup>th</sup> day of June A. D., 2021.

*Donald P. Warren*  
DONALD P. WARREN, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

*Cassandra Brager*  
CASSANDRA BRAGER, CITY CLERK

APPROVED:

*Deborah G. Pullum*  
DEBORAH G. PULLUM,  
CITY ATTORNEY



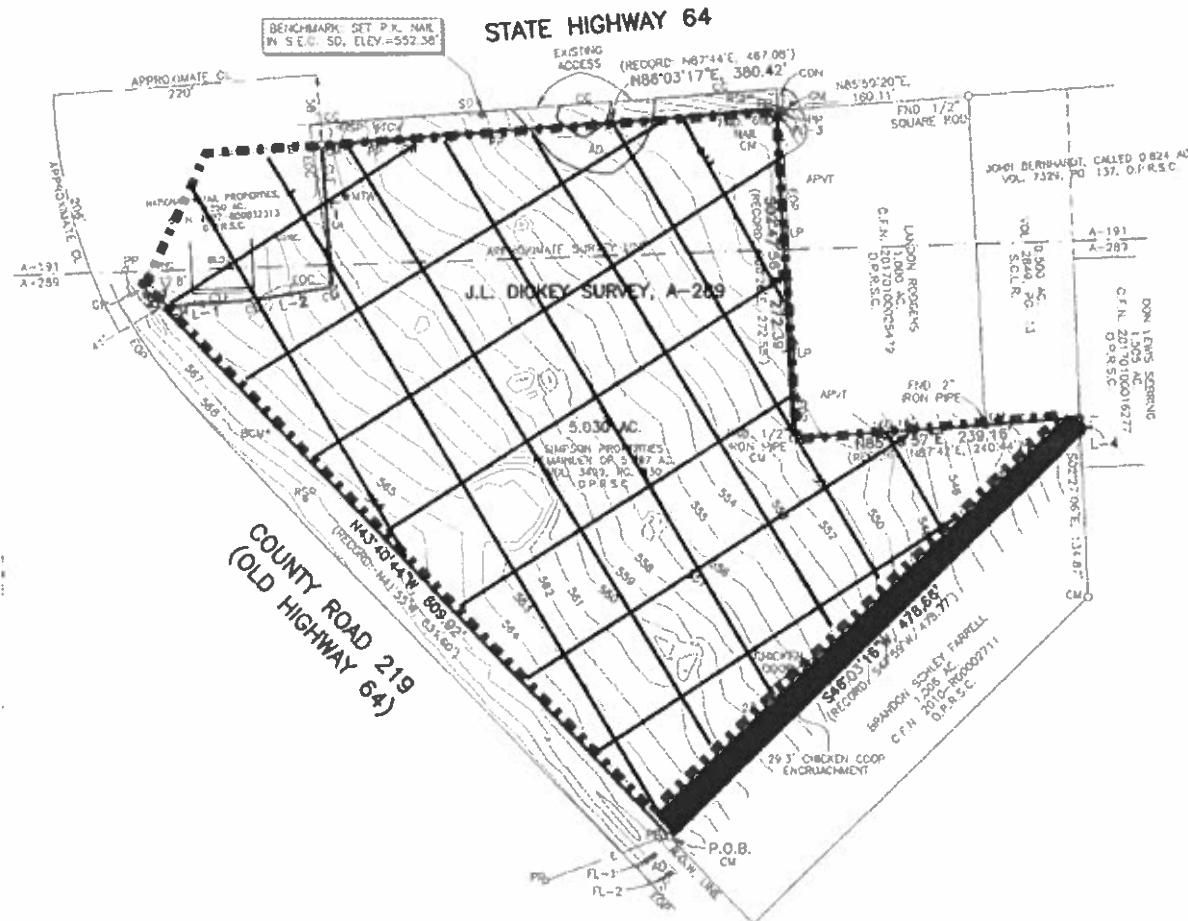
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EXHIBIT "A"  
LOCATION**

The annexed land is depicted and described by metes and bounds below. It consists of:

- all of that certain 0.350-acre tract of land conveyed to National Retail Properties, LP by instrument recorded in C.F.N. 2007-R00032313, Official Public Records of Smith County, Texas; and
- all but 0.221 acres of a 5.030 acre tract conveyed to Fikes Wholesale, Inc. by instrument recorded in C.F.N. 20190100032360.

**DEPICTION:**

The cross-hatched area is the land that has been annexed. The blacked-out strip is the 0.221 acres of land owned by Fikes Wholesale, Inc. that is excluded from the annexation.



**METES AND BOUNDS DESCRIPTION:**

The 0.350-acre tract, all of which has been annexed, is described by metes and bounds as follows:

Being all that tract of Land in the Smith County, Texas, a part of the James L. Dickey Survey, A-289 and part of the Polinio Cherino Survey, A-191, and being part of that called 5.397 acres described in a deed to Simpson Properties by deed of record in volume 3499, page 830 of the land records of Smith County, Texas and being further described as follows:

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**LOCATION**

Beginning at the intersection of the northeast right-of-way line of the Old Henderson Highway, with a cut back in the right-of-way of State Highway 64, being the most westerly corner of said 5.397 acres, a 5/8" steel rod found for corner; Thence North 32°01'00" East, a distance of 129.40 feet to a 3/8" I.R. for the Northwesterly corner of the herein described tract; Thence North 87°44'00" East, a distance of 83.94 feet along the South right-of-way line said Highway 64 to a 5/8" steel rod for Northeast Corner of the herein described tract; Thence South 02°08'19" East, a distance of 118.70 feet along a fence to a 5/8" steel rod found for the Southeast Corner of the herein described tract; Thence South 82°47'13" West, a distance of 65.67 feet along a fence to a 5/8" steel rod set for corner, Thence South 88°00'16" West, a distance of 76.99 feet along said fence to a 5/8" steel rod for the Southwesterly corner of the described tract; Thence North 41°55'00" West, a distance of 22.18 feet along the Old Henderson Highway to the point of beginning, & containing 0.350 acres (15,260 feet) tract of land.

The 5.030-acre tract, all but a portion of which has been annexed, is described by metes and bounds as follows:

**BEGINNING** at a 1/2" iron rod found for the southerly corner of said called 5.397 acre tract, same being the westerly corner of a called 1.006 acre tract described in a deed recorded in C.F.N. 2010-R00002711 of the Official Public Records of Smith County, Texas, same being in the northeast right-of-way line of County Road 219;

**THENCE**, North 43°40'44" West, with the southwest line of said 5.397 acre tract and said northeast right-of-way line of County Road 219, a distance of 609.92 feet to a 1/2" iron rod found for the southwest corner of a called 0.350 acre tract described in a deed recorded in C.F.N. 2007-R00032313 of said Official Public Records;

**THENCE**, North 86°16'20" East, with the south line of said 0.350 acre tract, a distance of 76.94 feet to a 1/2" iron rod found for a corner;

**THENCE**, North 80°50'48" East, continuing with said south line of said 0.350 acre tract, a distance of 65.89 feet to a 1/2" iron rod found for the southeast corner of said 0.350 acre tract;

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**LOCATION**

THENCE, North 03°50'42" West, a distance of 118.46 feet to a 1/2" iron rod found for the northeast corner of said 0.350 acre tract, same being in the south right-of-way line of State Highway 64;

THENCE, North 86°03'17" East, with said south right-of-way line of State Highway 64, a distance of 380.42 feet to a 60d nail found for the westerly northeast corner of said 5.397 acre tract, same being the northwest corner of a called 1.000 acre tract described in a deed recorded in C.F.N. 20170100025479 of said Official Public Records;

THENCE, South 02°47'56" East, a distance of 272.39 feet to a 1/2" iron pipe found for an interior corner of said 5.397 acre tract, same being the southwest corner of said 1.000 acre tract;

THENCE, North 85°59'57" East, at 160.16 feet passing a 2" iron pipe found for the southeast corner of said 1.000 acre tract, and continuing in all a total distance of 239.16 feet to a 1/2" iron rod with a plastic cap marked RPLS 2114 set for the easterly northeast corner of said 5.397 acre tract;

THENCE, South 02°27'06" East (the adjoining tract being described in a deed recorded in C.F.N. 20170100016277, O.P.R.S.C., for reference), a distance of 13.41 feet to a 1/2" iron rod found for the southeast corner of said 5.397 acre tract, same being the northeast corner of said 1.006 acre tract, from which a 1/2" iron rod found for the southeast corner of said 1.006 acre tract bears South 02°27'06" East, a distance of 134.88, for reference;

THENCE, South 46°03'16" West, a distance of 478.66 feet to the POINT OF BEGINNING and containing 5.030 acres of land.

The portion of the 5.030-acre tract that is excluded from annexation is described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found for the southerly corner of said 5.030 acre tract, same being in the northeast right-of-way line of County Road 219;

THENCE, North 43°40'44" West, with the southwest line of said 5.030 acre tract and along said northeast right-of-way line of County Road 219, a distance of 20.00 feet to a 1/2" iron rod with a plastic cap marked BMS Surveyors set for the westerly corner of the herein described tract;

THENCE, North 46°03'16" East, across said 5.030 acre tract, a distance of 475.57 feet to a 1/2" iron rod with a plastic cap marked BMS Surveyors set for the northwest corner of the herein described tract, same being in the easterly north line of said 5.030 acre tract;

THENCE, North 85°59'57" East, a distance of 15.50 feet to a 1/2" iron rod with a plastic cap marked BMS Surveyors set for the easterly northeast corner of said 5.030 acre tract;

THENCE, South 02°27'06" East, a distance of 13.41 feet to a 1/2" iron rod found for the southeast corner of said 5.030 acre tract;

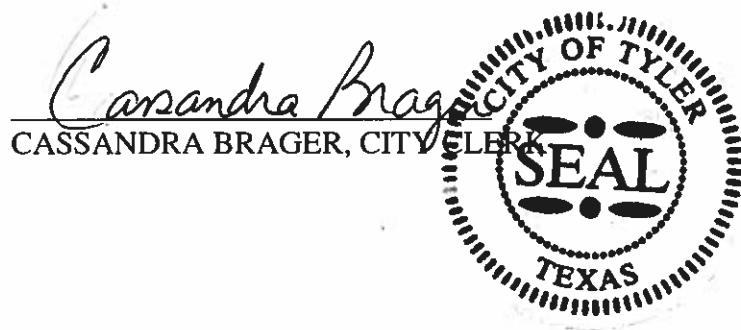
THENCE, South 46°03'16" West, a distance of 478.66 feet to the POINT OF BEGINNING and containing 0.221 acre of land.

PASSED AND APPROVED THIS the 9<sup>th</sup> day of June A. D., 2021.



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

ATTEST:



APPROVED:



Deborah G. Pullum  
DEBORAH G. PULLUM,  
CITY ATTORNEY