



**CITY OF TYLER  
CITY COUNCIL COMMUNICATION**

**Agenda Number: Z-13**

**Date: October 24, 2007**

**Subject: APPLICATION A09-07-004B SADDLE CLUB**  
**Request that the City Council consider a request to annex certain sparsely populated and owner requested territory constituting approximately 10.617 acres of land out of the Thomas Price Survey, A-794, as described by a metes and bounds description, located on the west side of Old Jacksonville Highway, at the northwestern corner of the intersection of County Road 164 and Old Jacksonville Road (14770 County Road 164). Also, consider establishing original zoning of “C-1” Light Commercial District.**

**Also, consider:**

- A. Establishing the new boundary of the City Limits**
- B. Establishing the new boundary of the Extra Territorial Jurisdiction**
- C. Establishing the new boundary of the City Council Districts**
- D. Updating the Land Use Map to reflect land use of light commercial**
- E. Establishing original zoning of 10.617 acres of “C-1” Light Commercial.**

**Page: 1 of 2**

**Item Reference: Texas Local Government Code Section 43.028; Annexation of Sparsely Populated Areas**

The applicants are requesting the annexation in order to receive city services and requesting the zoning to allow for commercial development.

The applicants are requesting annexation under the guidelines for sparsely populated areas pursuant to Texas Local Government Code Section 43.028. This section provides for the annexation of sparsely populated areas without public hearings. Section 43.028 requires that the petition for annexation be heard by the City Council after the 5<sup>th</sup> day but on or before the 30<sup>th</sup> day after the date the petition is filed.

The subject property is located at the northwest intersection of Old Jacksonville Highway and County Road 164. The subject property is contiguous to the corporate limits with the S & T Development tract on the east side of Old Jacksonville Highway. The applicant is requesting that 10.6 acre tract be zoned for light commercial. With the location of the site on a major arterial, Old Jacksonville Highway and the surrounding properties to the east being commercial the proposed local commercial zoning is considered compatible.

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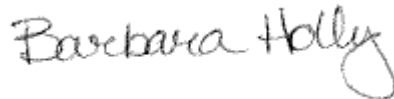
Of the six notices mailed, five notices were returned in favor of the application and no notices were returned in opposition to the request. At the September 18, 2007, Planning and Zoning Meeting, no one spoke in favor of or in protest to the application.

All other departments have reviewed the request and anticipate no significant impact on services or facilities by the proposed annexation and original zoning designations.

If this proposed annexation is approved along with the Werner-Taylor-Yonke annexation being considered by the City Council today, then this would result in an area being surrounded by the City limits. Texas Government Code Section 43.057 provides that if a proposed annexation would cause an area to be entirely surrounded by the annexing municipality, but would not include the area itself within the municipality, then the governing body must find, before completing the annexation, that surrounding such area is in the public interest. City Staff believes that this annexation is in the public interest because annexation was requested by both this applicant and the applicant for the Werner-Taylor-Yonke annexation. The petitioners would benefit from the City services being provided. The City is currently in the process of negotiating with the owner of the land that would constitute the “donut hole” to apply for voluntary annexation. In the event that negotiations are not successful, the size of the area to be surrounded is such that annexation by the City could still be done and the City would initiate annexation proceedings on its own.

**RECOMMENDATION:**

The Planning and Zoning Commission, by a vote of 7-0, recommends that the City Council adopt an ordinance providing for the annexation, establishing the new boundary of the City limits, establishing the new boundary of the extraterritorial jurisdiction, establishing the new boundary of the City Council districts, update the Land Use Map to reflect land use of light commercial and establishing the original zoning designation as “C-1”. It is also requested that the City Council make a finding that this annexation is in the public interest.



**Drafted/Recommended By: Barbara Holly**  
**Department Leader                      Director of Planning**

**Edited/Submitted By:**  
**City Manager**





**ZONING CASE**  
 Case#: A09-07-004B  
 Proposed Zoning: C-1  
 Applicant: SADDLE CLUB, LP

**ORDINANCE NO. O-2007-123**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, PROVIDING FOR THE ANNEXATION OF CERTAIN SPARSELY OCCUPIED AND OWNER-REQUESTED TERRITORY LYING ADJACENT TO AND CONTIGUOUS TO THE PRESENT WESTERN AND EASTERN BOUNDARY LIMITS OF THE CITY OF TYLER AND REFERRED TO AS THE ANNEXATION APPLICATION A09-09-004A; CONSTITUTING APPROXIMATELY 10.617 ACRES OF LAND OUT OF THE THOMAS PRICE SURVEY, A-794, AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE CITY OF TYLER EXTRATERRITORIAL JURISDICTION; ESTABLISHING THE INITIAL LAND USE DESIGNATION, AND ESTABLISHING ORIGINAL ZONING.**

**WHEREAS**, a public hearing was held before the City Council of the City of Tyler, Texas, on the 24<sup>th</sup> day of October, 2007, 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 10.617 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 10-1 through 10-2, 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, is 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 adopted by Ord.0-2007-53 and the City's ETJ are hereby adjusted as described in Tyler City Code Section 10-47 and that section and map are amended to reflect this annexation.

**PART 2:** 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 3:** That upon final passage, the annexed area shall be zoned as “C-1” Light Commercial as shown on the map attached as Exhibit “A” hereinabove mentioned.

**PART 4:** That the initial Land Use Designation for the annexed area is hereby established as commercial, and it is directed that the Land Use Map be amended to reflect said use.

**PART 5:** That the annexed area shall be added to the District, #1, City Council single member district and the official Voting District Map amended accordingly.

**PART 6:** That the Planning and Zoning 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 and Zoning 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.

**PART 9:** 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 24 day of October A. D., 2007.

\_\_\_\_\_  
JOSEPH O. SEEBER, MAYOR  
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
CITY ATTORNEY

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



LEGAL DESCRIPTION

July 26, 2005 11:44AM

No. 2353 P. 2/3

JOHN COWAN & ASSOCIATES, INC.

Registered Professional Land Surveyors

A. W. Osborn, R.L.S., R.L.S.
Terry D. Cowan, R.L.S.
Mark C. Olin, R.L.S.
Kelly M. Cowan, R.L.S.
C.H. McLaughlin, Jr., R.L.S.

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Tulsa, Texas 74201
(918) 481-2208 • FAX (918) 481-0400
jcowan@jcas.com

John Cowan (319) 478-1881
Frank Cowan (319) 478-1882

FIELD NOTES FOR ROBERT C. GRAHAM

Thomas Price Survey, Abstract No. 794
Smith County, Texas

All that certain lot, tract, or parcel of land, part of the Thomas Price Survey, Abstract No. 794, Smith County, Texas, being all of that certain called 7.526 acre tract and part of that certain called 5.63 acre tract described in a deed from H. M. Bell et al to J. M. Sanders on November 5, 1943 and recorded in Volume 443, Page 26 of the Deed Records of Smith County, Texas, and being more completely described as follows, to-wit:

BEGINNING at a fence corner at the Southeast corner of the above mentioned 7.526 acre tract, in the intersection of the West right-of-way of F. M. Highway No. 2493 (Old Jacksonville Highway) with the North right-of-way of County Road No. 164;

THENCE North 75 deg. 23 min. 08 sec. West with the North right-of-way of County Road No. 164, the South line of said 7.526 acre tract, a distance of 694.53 ft. to a fence corner at the Southwest corner of same, in the East right-of-way of the abandoned St. Louis Southwestern Railroad (now TXDOT) as described in Volume 4602, Page 299;

THENCE North 43 deg. 08 min. 44 sec. East with the East line of said TXDOT tract, the West line of said 7.526 acre tract, the West line of the above mentioned 5.63 acre tract, a distance of 1057.91 ft. to a 1/2" iron rod (set) for the Southwest corner of the Larry J. Taylor tract described in Volume 3398, Page 885;

THENCE Easterly with the South line of said Taylor tract, as follows: South 89 deg. 47 min. 26 sec. East - 85.74 ft. to a 1/2" iron rod (set) for corner from which a t-post bears South 12 deg. 11 min. 50 sec. East - 5.12 ft., North 80 deg. 48 min. 21 sec. East - 77.80 ft. to a 1/2" iron rod (set) for corner from a t-post bears South 19 deg. 36 min. 22 sec. West - 11.18 ft., South 71 deg. 16 min. 06 sec. East - 53.39 ft. to a 1/2" iron rod (set) for corner from which a t-post bears South 02 deg. 49 min. 42 sec. East - 5.20 ft. and South 71 deg. 15 min. 08 sec. East - 78.01 ft. to a 1/2" iron rod (set) for the Southeast corner of same, in the East line of said 5.63 acre tract, the West right-of-way of F. M. Highway No. 2493 (Old Jacksonville Highway);

THENCE Southwesterly with the East line of said 5.63 acre tract and 7.526 acre tract, as follows: South 20 deg. 17 min. 09 sec. West - 560.59 ft. to a concrete right-of-way monument (found) for corner and South 20 deg. 19 min. 11 sec. West - 404.83 ft. to the place of beginning, containing 10.617 acres of land.

Plot accompanies field notes.

I, TERRY D. COWAN, Registered Professional Land Surveyor No. 4139, do hereby certify that the above field notes were prepared from an actual survey made on the ground under my direction and supervision.

GIVEN UNDER MY HAND AND SEAL, this the 26th day of July, 2005

TERRY D. COWAN
Registered Professional Land Surveyor No. 4139
05-390 107248

OWNER PETITION



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.

Kenneth R. Smith  
SIGNATURE  
10/4/07  
DATE

Kenneth R. Smith  
PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF Texas  
COUNTY OF Dallas

This petition was acknowledged before me on the 4<sup>th</sup> day of October,  
2007 by Sidney L. Mast.



Sidney L. Mast  
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.

Bernard R. Smith  
SIGNATURE

Kenneth A. Smith  
PRINT NAME

DATE

SIGNATURE

PRINT NAME

DATE

(ACKNOWLEDGMENT)

THE STATE OF Texas  
COUNTY OF Denton

This petition was acknowledged before me on the 10 day of October, 2007 by Bernard R. Smith.



Sidney L. Mast  
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):  

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

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

vacant. Old saddle Club
  
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)  

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

214-265-8203  
Owner's Telephone Number

SIGNED: SADDLE CLUB, LP  
Ken Smith, manager  
OWNER (of property to be annexed)

903-561-4950  
Agent's Telephone Number

OR  
Stephanie Kelly  
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. Saddle Club L.P.	4925 Greenville Ave
2.	Ste 915, Dallas TX 75201
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.	<i>There are none.</i>	
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

SIGNED: *Stoxx & Co. LP*  
*[Signature]*  
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) Stephanie Rollings F. Mark Preston Planning Concepts 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>Ken An...</u>	<u>4925 Granite Ave Suite 95</u>
2.	<u>Sapacub LP</u>	<u>Dallas, TX 75206</u>
3.		
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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) C-1. 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

Ken Long manager  
SADDUCK LP

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Steph...  
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.