



**CITY OF TYLER  
CITY COUNCIL COMMUNICATION**

**Agenda Number: Z-1**

**Date: April 11, 2007**

**Subject: APPLICATION Z02-07-005A FREEMAN FAMILY TRUST**  
**Request that the City Council consider a request to change the zoning from "R-1A" Single-Family Residential District and "PUR" Planned Unit Residential District to "RPO" Restricted Professional and Office District and "PMF" Planned Multi-Family District on Lot 14 of NCB 1013I and Lots 1 through 33 of NCB 1561A of the Providence Park Addition located south and west of the intersection of New Copeland Road and Waterford Court (5661 Copeland Road).**

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**Item Reference:**

The applicant is requesting a zoning change to allow for the construction of two offices and the construction of a nursing and rehabilitation center.

Section 10-218, "PMF" Planned Multi-Family Residential District, is designed to provide for multi-family residential developments which are in close proximity to single-family and two-family residential districts which are developed in compliance with an approved site development plan. The PMF Development District is intended to be utilized for such uses as condominium, apartment and nursing home residential development while allowing for businesses which serve that community to be included in the design. The "PMF" District has no maximum building height or density; it is dependent upon the approved site plan.

A PMF development utilizes the total space within a development by creating common open spaces, scenic and recreational areas, office, commercial areas and other spaces, that will compensate for the reduction of land area dedicated for the residential/mixed use development.

In addition, development of a "PMF" District is to be consistent with an approved site development plan as part of the zoning approval. Any deviations from the approved site development plan require approval from both the Planning and Zoning Commission and the City Council through a public hearing process. The "PMF" Planned Multi-Family Residential District allows the Planning and Zoning Commission and the City Council to impose additional requirements such as building setbacks, landscaping, lighting, screening, access ways, and driveways for the protection of the adjoining and surrounding properties.

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Section 10-222, "RPO" Restricted Professional and Office District, is intended to permit the use and grouping of small professional offices and related facilities with limited non-residential use in areas near or adjoining residential districts without introducing non-related commercial uses. Uses permitted within this district include clinics or offices, personal service facilities, i.e., barber and beauty shops, small antique shops and other uses of similar character. The Height and Area regulations within the "RPO" District are consistent with the regulations of the "R-1B" Single-Family Residential District.

The adjacent property to the east is currently zoned "PUR" Planned Unit Residential District, while property to the north is zoned "R-3" Multi-Family Residential District and "POD" Planned Office Development District, and properties to the south and west are zoned "R-1A" Single Family Residential District and "POD" Planned Office Development District.

The applicant, as required, has submitted a Final Site Development Plan. The site plan shows a 48,100 sq. ft. building that will contain between 120 and 130 beds. The proposed setbacks are identified on the site plan, which show 43' and 126' varying setbacks from the south property lines, and 158' and 49' varying setbacks from the north property lines. There is a total of 84,004 sq. ft. of open space, exceeding the minimum open space requirement of 39,000 sq. ft. Additionally, a 55' greenbelt is identified along the southern most property line. There will be a total of 88 parking spaces provided, doubling the minimum requirement. Parking will be located along the east and west portions of the building. One access point is provided along New Copeland Road.

The increased intensity proposed by this development is mitigated by the significant area of tree preservation along the southernmost and northernmost property lines. Also, a three acre +/- floodway easement and a six foot privacy fence act as a buffer between the proposed development and the existing residential neighborhood to the west.

This request is consistent with the development pattern in the area and the rezoning of the property will be a continuation of the existing multi-family and office zoning to the north. If approved, this would establish an office and medium density residential land use.

The development plan is attached for your review and approval (Exhibit A).

On March 6, 2007, the Planning and Zoning Commission held a public hearing on this request. Of the 15 notices mailed, two notices were returned in favor of the application and two notices were returned in opposition to the request, equaling 8.49 percent protest. Ed Fritcher, Bennett White and Ron Donaldson spoke in opposition to the request. They expressed concern about the 55' greenbelt area identified on the site plan. Larry Parker spoke on behalf of the application. He identified the adjustments made to the site plan as a result of a neighborhood meeting. He also agreed to a 65' undisturbed greenbelt area located along the southern most property line.

On March 28, 2007, the City Council, voted 7-0 to table the request to allow time for further review of the site development plan and to meet with neighbors to address their concerns.

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On April 3, 2007, a neighborhood meeting was held to discuss the adjoining property owners' concerns. Six neighbors attended (the Lehman's were not in attendance) and expressed concern about tree preservation along the southern most property line and southwestern portions of the subject property. They asked that all trees 6" or greater in diameter be preserved within the 65' wide undisturbed buffer area, with an additional 15' wide, undisturbed buffer to be maintained on the west property boundary, extending from the south property line to a distance of approximately 150' northward. (For these purposes, undisturbed means leaving intact all trees 6" in diameter or larger.)

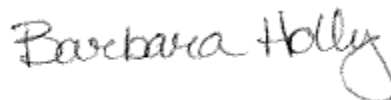
Mr. Parker agreed that trees meeting these standards that can reasonably be preserved, as determined by a licensed arborist, urban forester, or landscape architect, will be preserved. Within the western 15' wide buffer, and within the western 50' of the southern 65' buffer, a licensed arborist, urban forester, or landscape architect is to determine appropriate tree plantings to recreate a hardwood forest with trees no closer than 10' apart on center. Tree plantings are to be staggered to mimic natural conditions.

The neighbors asked if some of the parking behind the building could be relocated to facilitate tree preservation and Parker agreed to move a minimum of eight parking spaces from the southwest (behind the facility) to elsewhere on site, allowing the drive aisle to be moved closer to the building to assist in tree preservation. All site lighting is to be down shielded with a maximum of .2 foot-candles at the bounding property line to any single family area. The site plan is to depict visually these changes and also include these conditions in notes on the face of the site plan.

The neighbors were satisfied with the negotiations and Mr. and Mrs. Frost agreed to withdraw their protest if all conditions were met and memorialized on the site plan. The applicant will submit an updated site plan prior to the City Council meeting scheduled for April 11, 2007.

**RECOMMENDATION:**

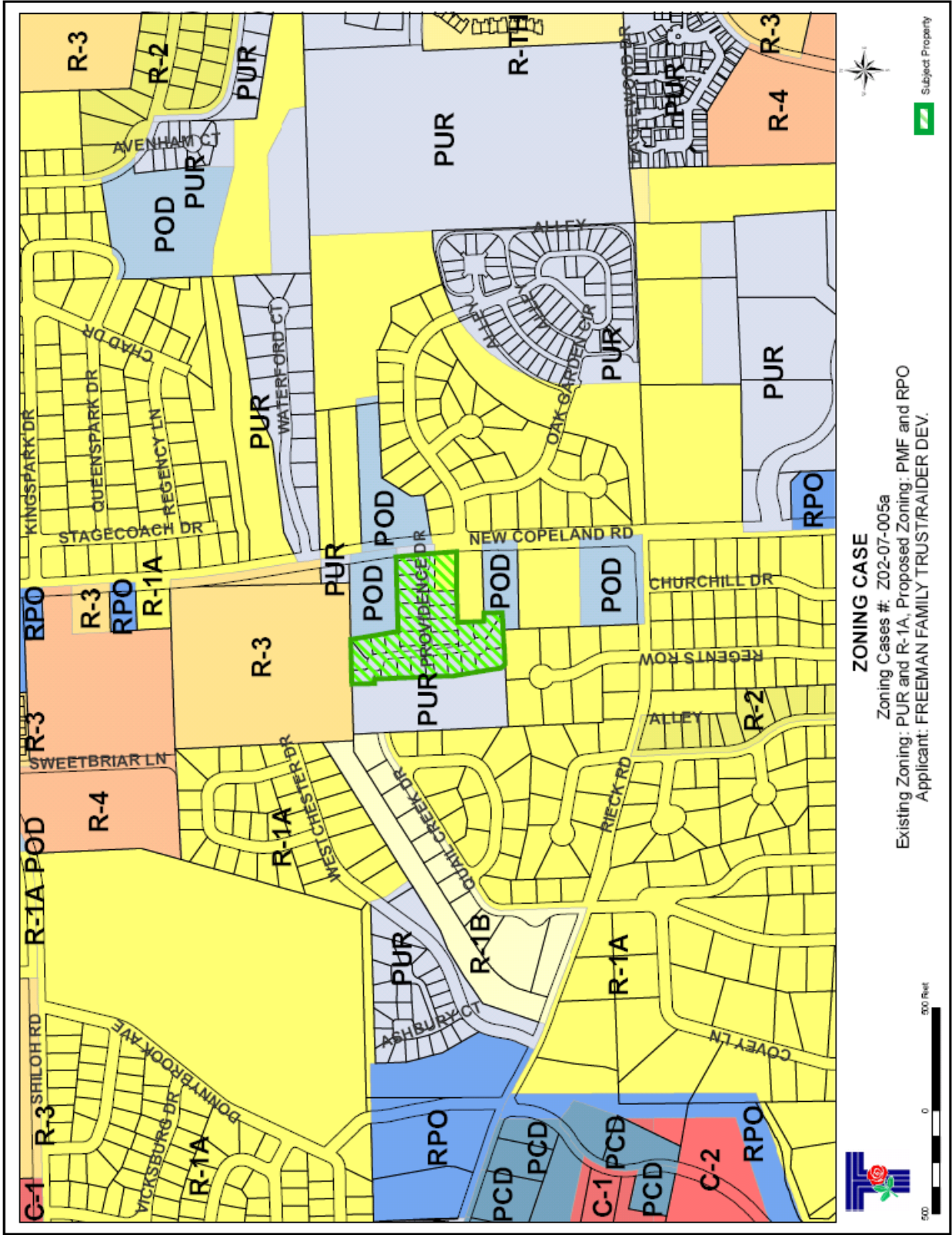
The Planning Commission, by a vote of 4-1, recommends approval of the request to change the zoning from "R-1A" Single-Family Residential District and "PUR" Planned Unit Residential District to "RPO" Restricted Professional and Office District and "PMF" Planned Multi-Family District subject to the attached site plan, including the additional site plan updates as result of the neighborhood meeting.



**Drafted/Recommended By:  
Department Leader**

**Barbara Holly  
Director of Planning**

**Edited/Submitted By:  
City Manager**



**ZONING CASE**

Zoning Cases #: Z02-07-005a  
 Existing Zoning: PUR and R-1A, Proposed Zoning: PMF and RPO  
 Applicant: FREEMAN FAMILY TRUST/RAIDER DEV.



Subject Property



500

0 500 Feet

**ORDINANCE NO. O-2007-34**

**AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; DIRECTING THE AMENDMENT OF THE ZONING MAP; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

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

**PART 1:** That the following zone change is hereby approved as follows:

**I. APPLICATION Z02-07-005A**

That the following described property, which has heretofore been zoned “R-1A” Single-Family Residential District and “PUR” Planned Unit Residential District, shall hereafter bear the zoning classification of “RPO” Restricted Professional and Office District and “PMF” Planned Multi-Family District with final site development plan approval, to-wit:

Lot 14 of NCB 1013I and Lots 1 through 33 of NCB 1561A of the Providence Park Addition, and being more particularly described by Exhibit “B”. This property is located south and west of the intersection of New Copeland Road and Waterford Court,

in accordance with the site development plan attached hereto as Exhibit “A”.

**PART 2:** That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning change.

**PART 3:** Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

**PART 4:** That this ordinance shall be effective on and after its date of passage and approval by the City Council.

**PASSED AND APPROVED** this the 11th day of April, A.D., 2007.

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

A T T E S T:

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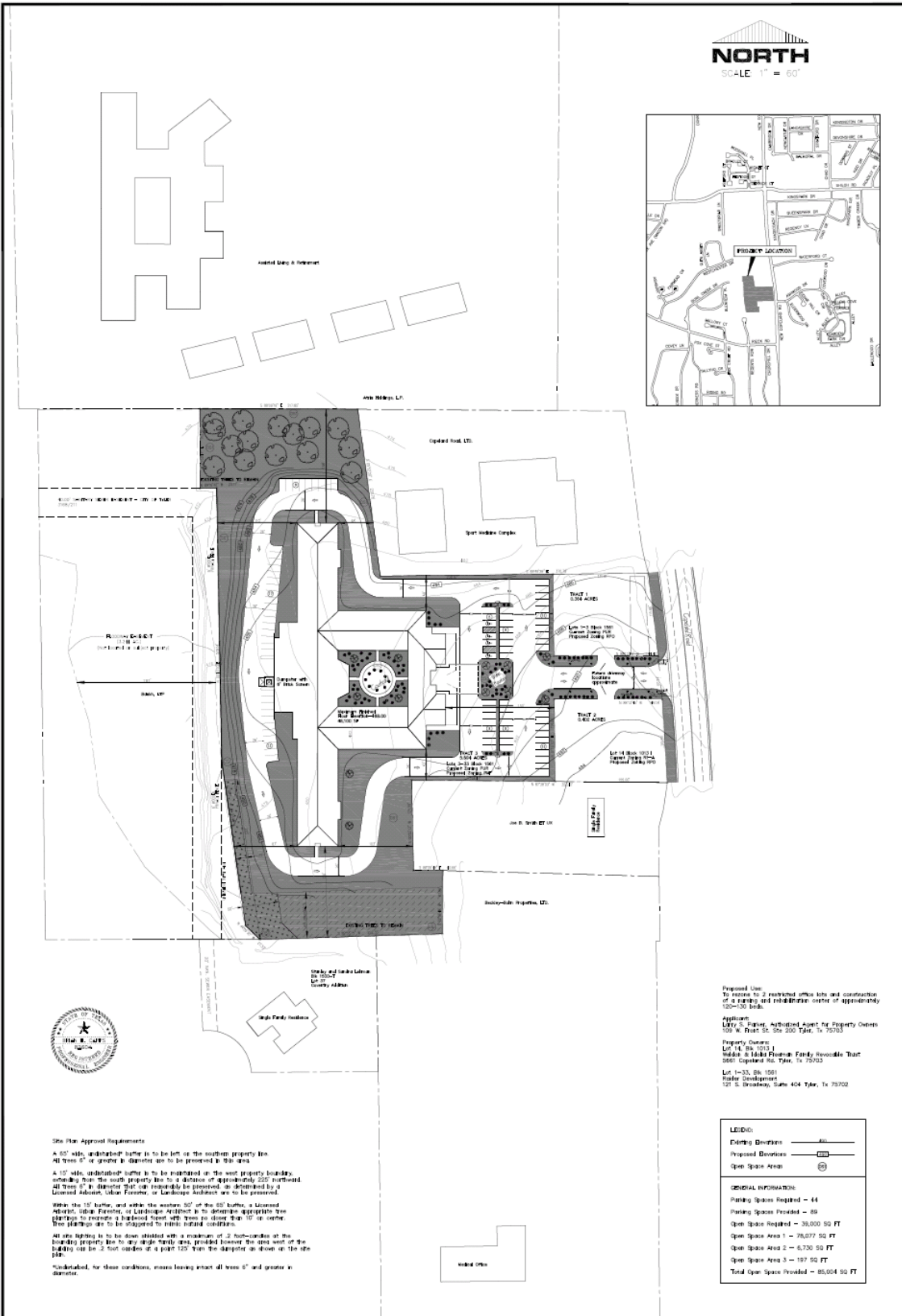
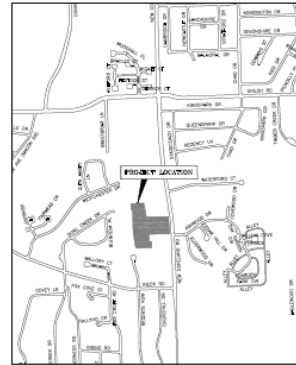
CASSANDRA BRAGER, CITY CLERK

APPROVED:

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CITY ATTORNEY

# Exhibit "A" to Ordinance No. 0-2004-34



**Site Plan Approval Requirements**

A 10' wide, undisturbed buffer is to be left on the southern property line. All trees 6" or greater in diameter are to be preserved in this area.

A 10' wide, undisturbed buffer is to be maintained on the west property boundary, which lies on the south property line to a distance of approximately 200' northward. All trees 6" in diameter that are responsible for preservation as determined by a Licensed Arborist, Urban Forester, or Landowner's arborist are to be preserved. Tree plantings are to be staggered to create natural conditions.

All new lighting is to be down shielded with a maximum of 2 foot-candles at the building property line to any single fixture area, provided however, the area west of the building can be 2 foot-candles at a point 120' from the dispenser as shown on the site plan.

\*Undisturbed, for these conditions, means leaving intact all trees 6" and greater in diameter.

**Proposed Use:**  
To restore to a restricted office use and construction of a family and rehabilitation center of approximately 100,000 sq. ft.

**Applicant:**  
LARRY S. FRYER, Authorized Agent for Property Owners  
109 W. Front St. Ste. 200 Tyler, Tx 75702

**Property Owners:**  
Lot 14, Bk. 10213  
HIDDEN & LARRY FRYER, Family Revocable Trust  
2000 Copeland Ave. Tyler, Tx 75702

Lot 1-33, Bk. 1561  
HARVEY DEVELOPMENT  
127 S. Broadway, Suite 404 Tyler, Tx 75702

<b>LEED®:</b>	
Existing Orientation	—
Proposed Orientation	—
Open Space Area	—
<b>GENERAL INFORMATION:</b>	
Parking Spaces Required	— 44
Parking Spaces Provided	— 88
Open Space Required	— 30,000 SQ FT
Open Space Area 1	— 76,077 SQ FT
Open Space Area 2	— 6,730 SQ FT
Open Space Area 3	— 197 SQ FT
Total Open Space Provided	— 83,004 SQ FT

S.D.S. 10/1/04	DATE	10/1/04	DATE	10/1/04
	REVISION		REVISION	
SITE PLAN				

**BROADMORE PLAZA**  
PROFESSIONAL OFFICES AND  
NURSING & REHABILITATION CENTER

**CAPCO ENGINEERING INC.**  
109 W. FRONT SUITE 212  
TYLER, TEXAS, 75702  
TEL. (903) 531-9870 FAX (903) 531-9875

**Exhibit "B" to Ordinance No. 0-2007-34**

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**JOHN COWAN & ASSOCIATES, INC.**

**Registered Professional Land Surveyors**

A. W. Osborn, RPLS, PLS  
Terry D. Cowan, RPLS, PLS  
Mark C. Ellis, RPLS, PLS  
Philip W. Cornett, RPLS  
C. H. McGaughey, Jr., RPLS

625 Chase Drive, Suite 107  
Tyler, Texas 75701  
903.581.2238 Fax 903.561.0600  
email: [jcowaninc@jcowaninc.com](mailto:jcowaninc@jcowaninc.com)

John Cowan (1914-1985)  
Frank Cowan (1944-1984)

**TRACT 1**

All that certain lot, tract or parcel of land, a part of the Susannah Butler Survey, Abstract No. 86 of Smith County, Texas, being part of Providence Park Addition as shown by plat recorded in Cabinet D, Slide 262-D of the plat records of Smith County, Texas, also being part of New City Block No. 1561 to the City of Tyler, Smith County, Texas, and being more completely described as follows, to-wit:

**BEGINNING** at the Northeast corner of the above mentioned Providence Park Addition at the Southeast corner of a called 1.975 acre tract described for Copeland Road Ltd. On the 9<sup>th</sup> day of November, 2004 and recorded in Volume 7652, Page 823, and being in the West right of way line of Copeland Road;

**THENCE** in a southerly direction with the West right of way line of Copeland Road and an East line of said Providence Park Addition and a curve to the right with a radius of 2992.47 ft., for an arc length of 115.86 ft., and a chord of South 05 deg. 03 min. 42 sec. East – 115.85 ft., to a corner;

**THENCE** North 88 deg. 13 min. 45 sec. West, for a distance of 144.40 ft., to a corner;

**THENCE** North 01 deg. 10 min. 32 sec. East, for a distance of 113.66 ft., to a corner in the most easterly North line of said Providence Park Addition and the South line of said 1.975 acre tract;

**THENCE** South 88 deg. 49 min. 28 sec. East, with the most easterly North line of said Providence Park Addition and the South line of said 1.975 acre tract for a distance of 131.81 ft., to the place of beginning and containing 0.364 of an acre of land.

Prepared by John Cowan & Associates, Inc., on the 5<sup>th</sup> day of January, 2007.  
07-005-Tr.1

Exhibit "B" to Ordinance No. 0-2007-34  
Page 2 of 4

**JOHN COWAN & ASSOCIATES, INC.**  
Registered Professional Land Surveyors

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Frank Cowan (1944-1984)

**TRACT 2**

All that certain lot, tract or parcel of land, a part of the Susannah Butler Survey, Abstract No. 86 of Smith County, Texas, being part of Providence Park Addition as shown by plat recorded in Cabinet D, Slide 262-D of the plat records of Smith County, Texas, and part of that certain called 0.48 of an acre tract 1 conveyed to Weldon Freeman and Idolia M. Freeman, Trustees of the Weldon and Idolia Freeman Family Revocable Living Trust from Weldon Freeman and wife, Idolia M. Freeman on the 10<sup>th</sup> day of September, 1999 and recorded in Volume 5055, Page 125, also being part of New City Block No. 1561 to the City of Tyler, Smith County, Texas, and being more completely described as follows, to-wit:

**BEGINNING** at the Southeast corner of the above mentioned 0.48 acre tract at the Northeast corner of a called 1 acre tract described for Joe B. Smith and recorded in Volume 1570, Page 674, and being in the West right of way line of Copeland Road;

**THENCE** North 87 deg. 38 min. 03 sec. West, with the South line of said 0.48 acre tract and the North line of said 1 acre tract for a distance of 155.00 ft., to a corner;

**THENCE** North 01 deg. 10 min. 32 sec. East, for a distance of 114.07 ft., to a corner;

**THENCE** South 88 deg. 13 min. 45 sec. East, for a distance of 149.18 ft., to a corner in an East line of said Providence Park Addition and the West right of way line of Copeland Road;

**THENCE** in a southerly direction with the West right of way line of Copeland Road and an East line of said Providence Park Addition and the East line of said 0.48 acre tract and a curve to the right with a radius of 2992.47 ft., for an arc length of 115.89 ft., and a chord of South 01 deg. 41 min. 22 sec. East – 115.88 ft., to the place of beginning and containing 0.402 of an acre of land.

Prepared by John Cowan & Associates, Inc., on the 5<sup>th</sup> day of January, 2007.  
07-005-Tr.2

**JOHN COWAN & ASSOCIATES, INC.**  
**Registered Professional Land Surveyors**

A. W. Osborn, RPLS, PLS  
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Frank Cowan (1944-1984)

**TRACT 3**

All that certain lot, tract or parcel of land, a part of the Susannah Butler Survey, Abstract No. 86 of Smith County, Texas, being part of Providence Park Addition as shown by plat recorded in Cabinet D, Slide 262-D of the plat records of Smith County, Texas, and part of that certain called 0.48 of an acre tract 1 conveyed to Weldon Freeman and Idolia M. Freeman, Trustees of the Weldon and Idolia Freeman Family Revocable Living Trust from Weldon Freeman and wife, Idolia M. Freeman on the 10<sup>th</sup> day of September, 1999 and recorded in Volume 5055, Page 125, also being part of New City Block No. 1561 to the City of Tyler, Smith County, Texas, and being more completely described as follows, to-wit:

**BEGINNING** at a point in the South line of the above mentioned 0.48 acre tract that is North 87 deg. 38 min. 03 sec. West – 155.00 ft., from the Southeast corner of same and the Northeast corner of a called 1 acre tract described for Joe B. Smith and recorded in Volume 1570, Page 674, and being in the West right of way line of Copeland Road;

**THENCE** North 87 deg. 38 min. 03 sec. West, with the South lines of said 0.48 acre tract and Providence Park Addition and the North line of said 1 acre tract for a distance of 198.47 ft., to the Northwest corner of said 1 acre tract an ell corner of said Providence Park Addition;

**THENCE** South 00 deg. 35 min. 13 sec. West, with a East line of said Providence Park Addition and the West line of said 1 acre tract for a distance of 125.59 ft., to the Southwest corner of same and an inner corner of said Providence Park Addition;

**THENCE** South 88 deg. 06 min. 48 sec. East, with the South line of said 1 acre tract and a line of said Providence Park Addition for a distance of 40.66 ft., to a corner of same;

**THENCE** South 02 deg. 18 min. 46 sec. West, with the most southerly East line of said Providence Park Addition for a distance of 87.86 ft., to the Southeast corner of same;

**THENCE** South 89 deg. 58 min. 15 sec. West, with the South line of said Providence Park Addition and partly with the North line of Lot 37 of Coventry Addition Unit 2 as shown by plat recorded in Cabinet C, Slide 2-D for a distance of 252.35 ft., to the Southeast corner of Lot 34 of said Providence Park Addition;

Exhibit "B" to Ordinance No. 0-2007-34

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**THENCE** in a Northerly direction with the East side of said Lot 34 as follows:

North 44 deg. 05 min. 35 sec. West – 27.53 ft.,

North 06 deg. 26 min. 48 sec. West – 230.77 ft.,

North 00 deg. 43 min. 20 sec. East – 379.14 ft.,

North 89 deg. 16 min. 40 sec. West – 23.11 ft., and

North 01 deg. 50 min. 41 sec. East, for a distance of 110.36 ft., to the Northeast corner of Lot 34 in the South line of a called 16.1818 acre tract described for Atria Texas Holdings, L.P. and recorded in Volume 6447, Page 245;

**THENCE** South 88 deg. 09 min. 19 sec. East, with the South line of said 16.1818 acre tract and the westerly North line of said Providence Park Addition for a distance of 217.85 ft., to the Northeast corner of same and the Northwest corner of a called 1.975 acre tract described for Copeland Road Ltd., on the 9<sup>th</sup> day of November, 2004 and recorded in Volume 7652, Page 823;

**THENCE** South 05 deg. 52 min. 29 sec. East, with the most northerly East line of said Providence Park Addition and the West line of said 1.975 acre tract for a distance of 233.78 ft., to the Southwest corner of same and an inner corner of said Addition;

**THENCE** South 88 deg. 49 min. 28 sec. East, with the South line of said 1.975 acre tract and the easterly North line of said Providence Park Addition for a distance of 238.97 ft., to a corner;

**THENCE** South 01 deg. 10 min. 32 sec. West, for a distance of 113.66 ft., to a corner;

**THENCE** South 88 deg. 13 min. 45 sec. East, for a distance of 144.40 ft., to a corner in an East line of said Providence Park Addition and the West right of way line of Copeland Road;

**THENCE** in a southerly direction with a East line of said Providence Park Addition and the West right of way line of Copeland Road and a curve to the right with a radius of 2992.47 ft., for an arc length of 60.24 ft., for a chord of South 03 deg. 22 min. 33 sec. East – 60.24 ft.;

**THENCE** North 88 deg. 13 min. 45 sec. West, for a distance of 149.18 ft., to a corner;

**THENCE** South 01 deg. 10 min. 32 sec. West, for a distance of 114.07 ft., to the place of beginning and containing 5.694 acres.

Prepared by John Cowan & Associates, Inc., on the 5<sup>th</sup> day of January, 2007.  
07-005-Tr.3