



**CITY OF TYLER  
CITY COUNCIL COMMUNICATION**

**Agenda Number:** Z-1

**Date:** May 15, 2007

**Subject:** APPLICATION A05-07-001A TERRY T. PENN

**Request that City Council consider an Ordinance providing for the annexation of certain sparsely populated and owner requested territory lying adjacent to and contiguous to the present boundary limits of the City of Tyler, referred to as Annexation Application A05-07-001A constituting approximately 6.465 acres contained in the Penco Office Park Subdivision as recorded in Cabinet D, Slide 42D of the Plat Records of Smith County, Texas, located at the northwest corner of the intersection of Spur 248 and CR 272 (Adam Henry Drive).**

**Also, consider establishing:**

- A. The new boundary of the City Limits**
- B. The new boundary of the Extraterritorial Jurisdiction**
- C. The new boundary of the City Council Districts**
- D. The initial Land Use designation of high density multi-family residential**
- E. The original zoning of “R-3” Multi-Family Residential District to allow for the development of a multi-family complex.**

**Page:** 1 of 2

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

The applicant is 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 the public hearings and without the requirement of a service plan prepared by the City. Section 43.028 further specifies that the petition for annexation be heard by the City Council within five to thirty days of the receipt of the petition.

On May 1, 2007, the Planning and Zoning Commission held a public hearing on the five elements of this request. Two written letters of protest were filed, both of whom were beyond the city boundaries and do not count in the protest calculations. No one spoke in opposition to the request.

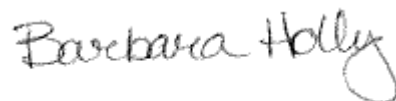
All other departments have reviewed the request and anticipate no significant impact on services or facilities by the proposed annexation or original zoning designation.

**Agenda Number: Z-1**

**Page: 2 of 2**

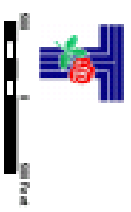
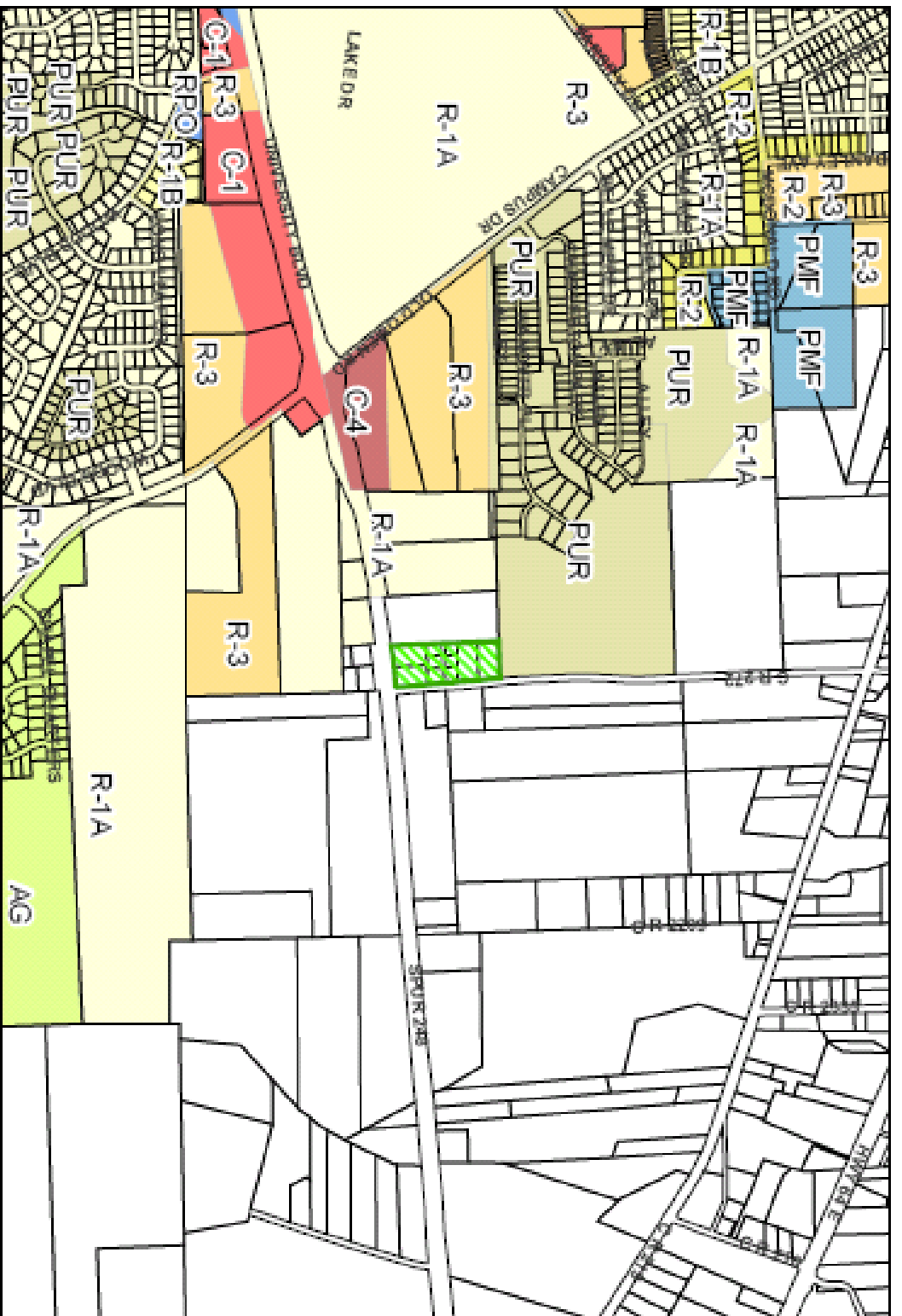
**RECOMMENDATION:**

The Planning and Zoning Commission, by a vote of 7-0, recommends approval of the request to annex the land, extend the ETJ boundary, add the area to Council District Number 4, establish a high density multi-family residential land use and attendant "R-3" multi-family zoning designation for 6.465 acres contained in the Penco Office Park Subdivision as recorded in Cabinet D, Slide 42D of the Plat Records of Smith County, Texas, located at the northwest corner of the intersection of Spur 248 and CR 272 (Adam Henry Drive).

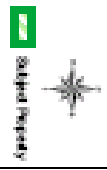
A handwritten signature in cursive script that reads "Barbara Holly".

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

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



**ANNEXATION CASE**  
 Annexation Case #: A05-07-001A  
 Applicant: TERRY T. PENN



NCB 1620J

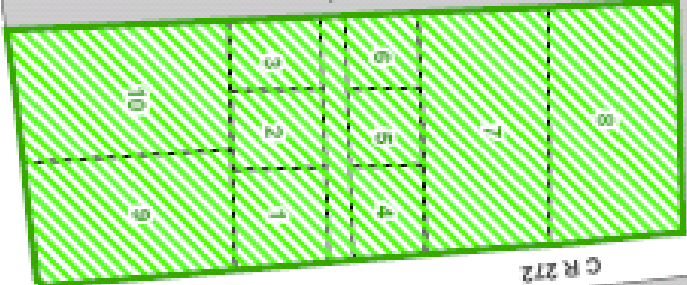
NCB 1620H

NCB 144

UNIVERSITY BLVD

WPN PROPERTIES LTD

DEPT OF PUBLIC SAFETY



C R 272

PENDERGRIFT

PENNA

FLORNEY

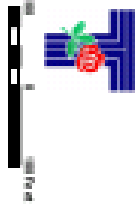
CHARL BOSTON PARK LLC

SPUR 248

LAKESHORE CHURCH OF

THE LAKE J/R ENTRANCES

TRADITION HOUSE & GARAGE



**ANNEXATION CASE**  
 Annexation Case #: A05-07-001 A  
 Applicant: TERRY T. PENN



Subject Property  
 207 Redoubt Drive

**ORDINANCE NO. O-2007-53**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, PROVIDING FOR THE ANNEXATION OF CERTAIN SPARSELY POPULATED AND OWNER-REQUESTED TERRITORY LYING ADJACENT TO AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF TYLER REFERRED TO AS ANNEXATION APPLICATION A05-07-001A CONSTITUTING APPROXIMATELY 6.465 ACRES CONTAINED IN THE PENCO OFFICE PARK SUBDIVISION AS RECORDED IN CABINET D, SLIDE 42D OF THE PLAT RECORDS OF SMITH COUNTY, TEXAS, LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF SPUR 248 AND CR 272 (ADAM HENRY DRIVE).**

**ALSO, CONSIDER ESTABLISHING:**

- a. THE NEW BOUNDARY OF THE CITY LIMITS;**
- b. THE NEW BOUNDARY OF THE EXTRA TERRITORIAL JURISDICTION;**
- c. THE NEW BOUNDARY OF THE CITY COUNCIL DISTRICTS;**
- d. THE LAND USE MAP TO REFLECT A LAND USE OF HIGH DENSITY MULTI-FAMILY RESIDENTIAL;**
- e. ORIGINAL ZONING OF "R-3" MULTI-FAMILY RESIDENTIAL DISTRICT TO ALLOW FOR THE DEVELOPMENT OF A MULTI-FAMILY COMPLEX.**

**WHEREAS**, a public hearing was held before the City Council of the City of Tyler, Texas, on the 15<sup>th</sup> day of May, 2007, in the Council Chambers, City Hall, 212 North Bonner, 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 areas to be annexed are one-half mile or less in width; and

**WHEREAS**, the areas to be annexed are contiguous to the City of Tyler; and

**WHEREAS**, the areas to be annexed are vacant and without residents; and

**WHEREAS**, the hereinafter described territories lie within the extraterritorial jurisdiction of the City of Tyler, Texas; and

**WHEREAS**, the hereinafter described territories contain a total of approximately 6.465 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, described in Exhibit "A", and as shown on the map attached as 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.

**PART 2:** That the areas 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 areas shall be zoned as "R-3" Multi-Family Residential District as shown on the map attached as Exhibit "B" hereinabove mentioned.

**PART 4:** That the annexed areas shall be added to the Northeast, #4, City Council single member district and the official Voting District Map amended accordingly.

**PART 5:** That within thirty (30) days of notice of U. S. Justice Department approval of this annexation, the City Clerk, 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 6:** 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 15<sup>th</sup> day of May, A.D., 2007.

---

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

A T T E S T:

APPROVED:

---

CITY CLERK

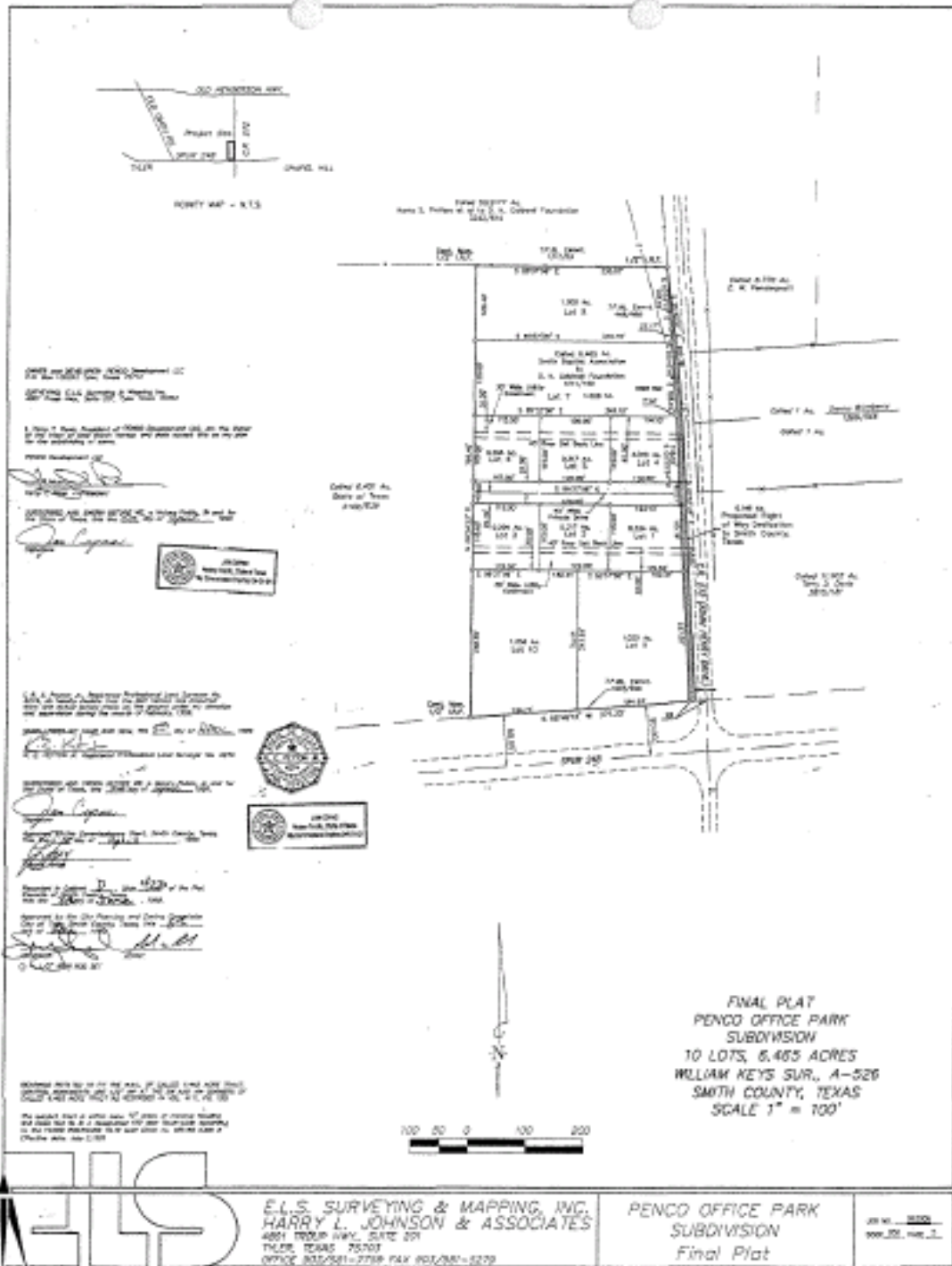
---

CITY ATTORNEY

Exhibit A = Recorded Plat  
Exhibit B = Map  
Exhibit C = Owner Petition

ORDINANCE NO. 0-2007-53

EXHIBIT "A"



P04-09, 340-B



**E.L.S. SURVEYING & MAPPING, INC.**  
**HARRY L. JOHNSON & ASSOCIATES**  
 4801 TROUP HWY., SUITE 201  
 FLDG, TEXAS 75703  
 OFFICE 802/521-2759 FAX 802/521-5279

**Penco OFFICE PARK**  
**SUBDIVISION**  
**Final Plat**

JOB NO. 0000  
 1000.000, PAGE 1

ORDINANCE NO. 0-2007-53

EXHIBIT "B"

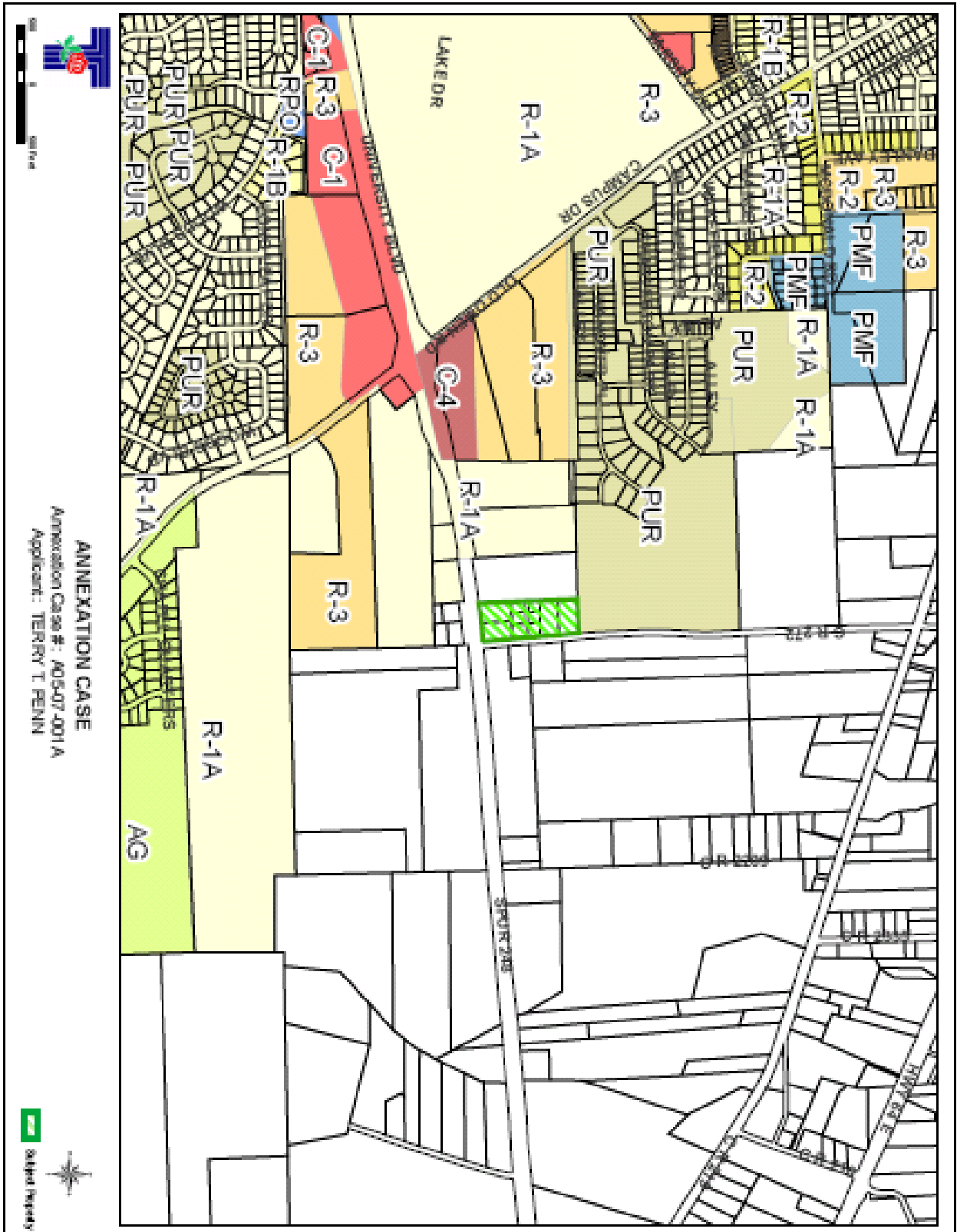


EXHIBIT "C" Page 1 of 9



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 B 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.

Sheryl A. Penn  
SIGNATURE

Sheryl A. Penn  
PRINT NAME

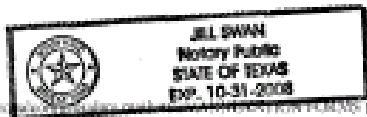
5/8/07  
DATE

(ACKNOWLEDGMENT)

THE STATE OF Texas  
COUNTY OF Smith

This petition was acknowledged before me on the 8th day of May, 2007, by Sheryl A. Penn

Jill Swan  
Notary Public  
State of Texas



ORDINANCE NO. 0-2007-53

EXHIBIT "C" Page 2 of 9



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.

[Signature]  
SIGNATURE  
5/14/07  
DATE

TERRY T. PENN  
PRINT NAME

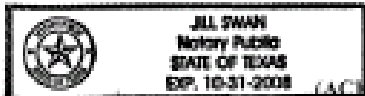
[Signature]  
SIGNATURE  
5/13/07  
DATE

Sheryl A. Penn  
PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF Texas  
COUNTY OF Smith

This petition was acknowledged before me on the 14th day of May, 2007 by Terry T. Penn

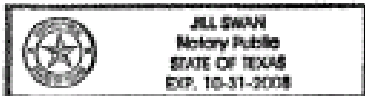


[Signature]  
Notary Public  
State of Texas

(ACKNOWLEDGMENT)

THE STATE OF Texas  
COUNTY OF Smith

This petition was acknowledged before me on the 3rd day of May, 2007 by Sheryl A. Penn



[Signature]  
Notary Public  
State of Texas

ORDINANCE NO. 0-2007-53

EXHIBIT "C" Page 3 of 9



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):  

Development of a multi-family complex.
2. I (We) am/are requesting this annexation for the following reason(s):  

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

3 office buildings - may keep them all as part of the development or may demo. one or two.
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)  

water along Spur 248  
sewer not currently available, but will be extended for development
5. Any additional information that you desire to provide concerning your annexation request:

903-581-9639  
Owner's Telephone Number

SIGNED:  
  
OWNER (of property to be annexed)

(903) 561-0000  
Agent's Telephone Number

OR  
  
AGENT (When applicable - See Form E)

ORDINANCE NO. 0-2007-53

EXHIBIT "C" Page 4 of 9



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.	PENCO Development LLC, PO Box 130243, Tyler Tx. 75713
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	

ORDINANCE NO. 0-2007-53

EXHIBIT "C" Page 5 of 9



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. N/A	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

SIGNED:

  
Owner et al (of property to be annexed)

  
Agent (when applicable - See Form E)

ORDINANCE NO. 0-2007-53

EXHIBIT "C" Page 6 of 9



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) [redacted] PHILIP J. SIMAC 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.		Pos Bros, LLC P.O. Box 130263 Tyler 75713
2.	[redacted]	[redacted]
3.	[redacted]	[redacted]
4.	[redacted]	[redacted]
5.	[redacted]	[redacted]
6.	[redacted]	[redacted]
7.	[redacted]	[redacted]
8.	[redacted]	[redacted]
9.	[redacted]	[redacted]
10.	[redacted]	[redacted]
11.	[redacted]	[redacted]
12.	[redacted]	[redacted]
13.	[redacted]	[redacted]
14.	[redacted]	[redacted]
15.	[redacted]	[redacted]

(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".)

ORDINANCE NO. 0-2007-53

EXHIBIT "C" Page 7 of 9



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) R-3. 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

James R. Rocco, LLC  
Sherry G. Penn, Officer Rocco LLC  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Patricia Stone  
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.

ORDINANCE NO. 0-2007-53

EXHIBIT "C" Page 8 of 9



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) R-3. 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

James J. R. Roy, President  
Springfield, Texas, Officer, Banco USA  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Patricia Stone  
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.

ORDINANCE NO. 0-2007-53

EXHIBIT "C" Page 9 of 9



RECEIVED: 4-11-07 REFERRAL NO: Annexation Petition APPLICATION NO: AO5-07-001A 5/4/07

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 \_\_\_\_\_, \_\_\_\_\_, 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 LEGALLY THE PROPOSED ANNEXATION.