

ORDINANCE NO. O-2008-152

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 NORTHERN AND EASTERN BOUNDARY LIMITS OF THE CITY OF TYLER AND REFERRED TO AS THE ANNEXATION APPLICATION A10-08-008B; CONSTITUTING APPROXIMATELY 39.326 ACRES OF LAND AS DESCRIBED BY A METES AND BOUNDS DESCRIPTION, LOCATED TWO LOTS NORTH OF THE INTERSECTION OF RHONES QUARTER ROAD AND ROY ROAD, 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 10th day of December, 2008, 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 39.326 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 10-800 through 10-802, 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, 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 adopted by Ord.0-2007-53 and the City's ETJ are 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 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 8.977 acres for "R-MF", Multi-Family Residential District, 7.113 acres for "C-1", Light Commercial District, and 23.235 acres for "M-1" Light Industrial District, as shown on Exhibit "D", hereinabove mentioned.

PART 4: That the initial Land Use Designation for the annexed area is hereby established as Multifamily, Neighborhood Commercial, and Industrial/ Manufacturing, and it is directed that the Land Use Guide be amended to reflect said uses.

PART 5: That the annexed area shall be added to the Northeast District #5, 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.

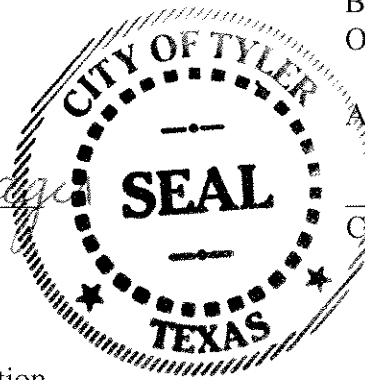
PART 9: That this ordinance shall be in full force and effect from and after the date of its passage and approval by the City Council.

PASSED AND APPROVED THIS the 10th day of December A. D., 2008.


BARBARA BASS, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:


CITY CLERK



APPROVED:


CITY ATTORNEY

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

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EXHIBIT "A"
MAP



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EXHIBIT "B"
LEGAL DESCRIPTION
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Legal Description

Being a 39.326 acre tract of land situated in the Victor Loupey Survey, Abstract No. 616, in the City of Tyler, Smith County, Texas, and being part of a called 1.39 acre tract of land described in deed to Oncor Electric Delivery Company, Inc., as recorded in Volume 902, Page 99, Deed Records of Smith County, Texas D.R.S.C.T., and all of those 4.612 acre and 2767 acre tracts of land described in deed to Oncor Electric Delivery Company, LLC, as recorded in Document Number 2008-R00002387, (D.R.S.C.T.), and all of a called 5.687 acre tract of land described in deed to the City of Tyler for Grande Boulevard, (a variable width right-of-way), as recorded in Document No. 2007-R00038650, D.R.S.C.T., and including all of the Oncor Tyler Southeast Substation Addition, an addition to the City of Tyler, Texas, as recorded in Document No. R00063918, D.R.S.C.T., and being more particularly described as follows:

BEGINNING at the most northerly southwest corner of Lot 1, Block 1 of said Oncor Tyler Southeast Substation Addition, being the northwest corner of Lot 2 of said Block 1, also being on the easterly right-of-way line of FM 2964 (a variable width right-of-way);

THENCE along the east line of said FM 2964 and the west line of said Lot 1 the following bearing and distances:

North 14 degrees 55 minutes 08 seconds West, a distance of 122.43 feet to a 1/2-inch iron rod with cap found for corner;

North 06 degrees 51 minutes 09 seconds West, a distance of 8.28 feet to a 1/2-inch iron rod with cap found for corner;

North 11 degrees 48 minutes 16 seconds West, a distance of 27.95 feet to a 1/2-inch iron rod with cap found for the beginning of a non-tangent circular curve to the right with a radius of 5,679.65 feet, and whose chord bears North 04 degrees 43 minutes 44 seconds West, a distance of 356.94 feet;

Northwesterly, along said curve to the right, passing at an arc distance of 191.83 feet the northwest corner of said Lot 1, and south line of Grande Boulevard and continuing along said east line of FM 2964, through a total central angle of 03 degrees 36 minutes 05 seconds, and arc distance of 357.00 feet to a point in the approximate centerline of said Grande Boulevard;

North 02 degrees 06 minutes 54 seconds West, departing said centerline, and continuing along said east right-of-way line, a distance of 161.20 feet to a point on the north line of said 1.39 acre Oncor tract;

THENCE South 88 degrees 27 minutes 17 seconds East, departing said east right-of-way line, and along the north line of said 1.39 acre tract, passing at a distance of 7.21 feet a 1/2-inch iron rod found for the southwest corner of a tract of land described in deed to Steve D. Shoup, as recorded in Volume 3553, Page 282, D.R.S.C.T., and continuing along the common line between said 1.39 acre tract, and said Shoup tract, in all a total distance of 372.32 feet to a point for corner;

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EXHIBIT "B"
LEGAL DESCRIPTION
PAGE 2 OF 2

THENCE North 01 degree 00 minutes 43 seconds East, continuing along said common line, a distance of 120.02 feet to a point for corner;

THENCE South 88 degrees 07 minutes 17 seconds East, continuing along said common line, a distance of 199.15 feet to a point for corner;

THENCE South 01 degree 01 minute 30 seconds West, continuing along said common line, a distance of 120.39 feet a 1/2-inch iron rod with cap stamped "Halff Associates, Inc." (hereinafter referred to as "with cap") found for the northwest corner of said Lot 1, Block 2, Oncor Tyler Southeast Substation Addition;

THENCE South 88 degrees 11 minutes 47 seconds East, along the common line between said Shoup tract and said Lot 1, Block 2, a distance of 1,156.04 feet to a 1/2-inch iron rod found for northeast corner of said Lot 1, Block 2;

THENCE South 00 degrees 00 minutes 46 seconds East, along the east line of said Lot 1, Block 1, passing at a distance of 203.74 feet the southeast corner of said Lot 1, same being the northeast corner of said Grande Boulevard dedication, and continuing across said Grande Boulevard, passing at an additional distance of 130.06 feet the south line of said Grande Boulevard, same being the northeast corner of said Lot 1, Block 1, and continuing along the east line of said Lot 1, Block 1, all a total distance of 503.23 feet to a 3/8-inch iron rod found for corner;

THENCE South 00 degrees 21 minutes 13 seconds East, continuing along the east line of said Lot 1, Block 1, a distance of 500.12 feet to a 3/8-inch iron rod found for corner;

THENCE South 00 degrees 28 minutes 10 seconds East, continuing along said east line, a distance of 117.76 feet to a 1/2-inch iron rod found for the southeast corner of Lot 1, Block 1;

THENCE North 89 degrees 35 minutes 45 seconds West, along the south line of said Lot 1, a distance of 1,147.36 feet to 1/2-inch iron rod with cap stamped "Halff Associates, Inc." (hereinafter referred to as "with cap") found for the southeast corner of Lot 2, Block 1 of said Oncor Tyler Southeast Substation Addition;

THENCE North 08 degrees 32 minutes 00 seconds West, departing said south line and along a common line between said Lot 2, Block 1 and Lot 1, Block 1, a distance of 498.05 feet to a point for corner;

THENCE North 89 degrees 35 minutes 45 seconds West, continuing along said common line between said Lots 1 and 2, a distance of 436.00 feet to the POINT OF BEGINNING AND CONTAINING 1,713,036 square feet, or 39.326 acres of land, more or less.

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EXHIBIT "C"
OWNER PETITION

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FORM A

REQUEST FOR ANNEXATION OF SPARSELY OCCUPIED AREA
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; a metes and bounds description is required), 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 occupied 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 petition on the date shown below.

Thomas Newsom
SIGNATURE

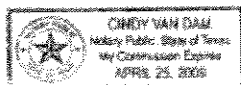
Tommy Newsom
PRINT NAME

12-2-08
DATE

(ACKNOWLEDGMENT)

THE STATE OF Texas
COUNTY OF Tarrant

This petition was acknowledged before me on the 2nd day of DECEMBER,
2008 by THOMAS F. NEWSOM



Cindy Van Dam
Notary Public
State of Texas

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EXHIBIT "C"
OWNER PETITION
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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 occupied 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 petition on the date shown below.

Tommy Newsom
SIGNATURE
12-2-08
DATE

Tommy Newsom
PRINT NAME

SIGNATURE

DATE

PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF Texas
COUNTY OF Tarrant

This petition was acknowledged before me on the 2nd day of December, 2008 by Thomas F. Newsom.



Cindy Van Dam
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 _____

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EXHIBIT "C"
OWNER PETITION

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FORM B

APPLICANT'S SUPPORT INFORMATION FOR REQUEST FOR ANNEXATION OF SPARSELY OCCUPIED AREA

Applicants shall 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 use this property for the following purpose(s):
Local utility use for an electrical switching station. Remainder parcels will be sold to recoup rate payer's expense. Likely uses include retail/general merchandise and multi-family.
2. I (We) am/are requesting this annexation for the following reason(s):
Per agreement with city staff.
3. State present use and condition of property and/or structures:
NONE. Under construction for local utility use.
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)
See attached maps. In newly constructed road.
5. Any additional information that you wish to provide concerning your annexation request:

SIGNED:

817 215 6301
Owner's Telephone Number

OWNER (of property to be annexed)

OR

214 761 9191
Agent's Telephone Number


AGENT (When applicable - See Form E)

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EXHIBIT "C"
OWNER PETITION
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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. <u>ONGOR Electric Delivery Company</u>	<u>Room 505/ESB</u>
2. _____	<u>115 W. 7th Street.</u>
3. _____	<u>Ft Worth, TX 76102</u>
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____
16. _____	_____
17. _____	_____
18. _____	_____
19. _____	_____
20. _____	_____

EXHIBIT "C"
OWNER PETITION
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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.

NAME AND AGE

MAILING ADDRESS

- 1. NONE
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____

SIGNED:

Owner et al (of property to be annexed)

[Handwritten Signature]

Agent (when applicable - See Form E)

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EXHIBIT "C"
OWNER PETITION

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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) Mastercard to act as our Agent in the matter of this annexation. The term "Agent" shall mean any lessee, developer, option holder, or other 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>W.D. Dignas</u>	<u>ONCOR ELECTRIC DELIVERY</u>
2. _____	<u>Room 505 ESB</u>
3. _____	<u>115 W. SEVENTH ST.</u>
4. _____	<u>FORT WORTH, TX 76102.</u>
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".)

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EXHIBIT "C"
OWNER PETITION

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FORM G

PETITION FOR ORIGINAL ZONING OF SPARSELY OCCUPIED 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) CU-M1, R-MF. 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. A metes and bounds description is required.

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

[Handwritten signature]

[Handwritten signature]

Agent (When Applicable - See Form E)

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

