

ORDINANCE NO. O-2009-49

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 BOUNDARY LIMITS OF THE CITY OF TYLER AND REFERRED TO AS THE ANNEXATION APPLICATION A04-09-001 (KELLY SPRINGFIELD, EASTERN PORTION); A FIVE-FOOT STRIP BEGINNING AT THE SOUTHWEST PROPERTY LINE OF THE KELLY SPRINGFIELD PROPERTY MOVING NORTH FOR APPROXIMATELY 1,500 FEET ALONG THE WESTERN BOUNDARY LINE OF SAID PROPERTY AND EASTERN BOUNDARY LINE OF F.M. 206, EXTENDING ACROSS F.M. 206 GOING WEST TO THE NORTHEAST PROPERTY LINE OF THE KELLY SPRINGFIELD PROPERTY, AS DESCRIBED BY A METES AND BOUNDS DESCRIPTION, LOCATED WEST OF BELLWOOD LAKE AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE CITY OF TYLER EXTRATERRITORIAL JURISDICTION; ESTABLISHING THE INITIAL LAND USE DESIGNATION; ESTABLISHING ORIGINAL ZONING; AND ESTABLISHING AN EFFECTIVE DATE.

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 is a five-foot strip containing approximately .415 acres of land and crossing the property described in Exhibit "B", together with a five-foot strip of land across FM 206 to Kelly Springfield property;

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 as Exhibit "B", a five-foot strip crossing the property described in Exhibit "B" together with a 5' strip of land across FM 206 to Kelly Springfield property, 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 5 foot strip 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. The current value of the .415 acres is approximately \$5,296.68 which will yield a current city tax obligation of \$10.85 per year. The owner would receive two tax statements, one for the 5 foot strip and a separate statement for the remainder of the property. Receipt of such statements will serve as written proof that the value of the 5 foot strip is being kept to a minimal amount. The landowner would not begin receiving the "second" tax statement on the 5 foot area until the year 2010. At that time, the total City tax on such 5 foot strip is expected to remain miniscule (estimated to be less than \$11.00). 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 "AG", Agricultural District, as shown on Exhibit "D", hereinabove mentioned.

PART 4: That the initial Land Use Designation for the annexed area is hereby established as Agricultural 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 West District #2, Council single member district and the official Voting District Map amended accordingly.

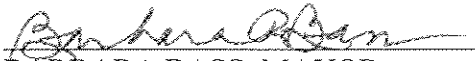
PART 6: That the Planning and Zoning Department shall send to the Texas Secretary of State a copy of the ordinance and statement that the annexation is not involved in any litigation.

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 22nd day of April A. D., 2009.


BARBARA BASS, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:


CITY CLERK



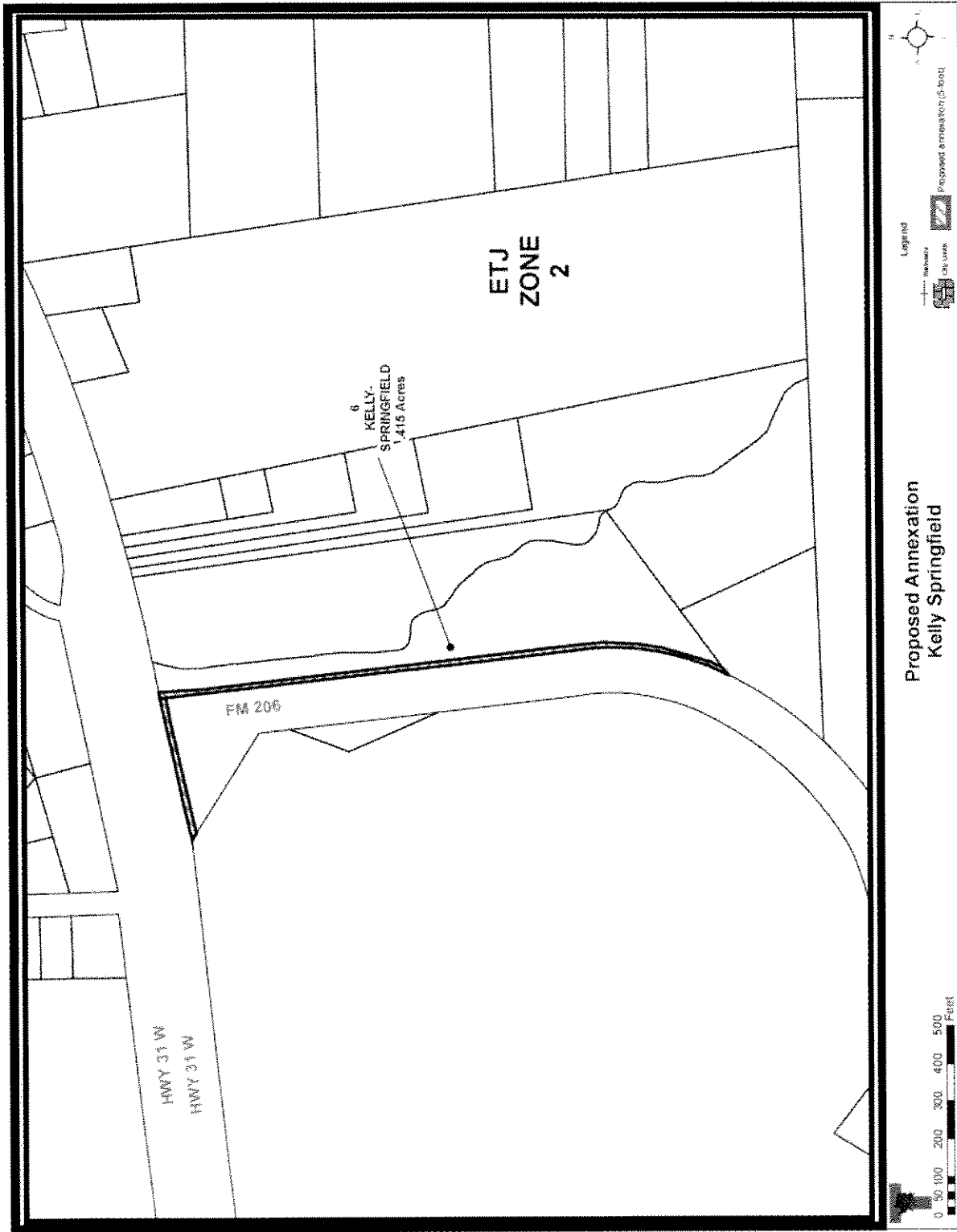
APPROVED:


CITY ATTORNEY

- Exhibit A = map
- Exhibit A-1 = legal description - sketch
- Exhibit B = legal description
- Exhibit C = owner petitions
- Exhibit D = zoning map

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EXHIBIT "A"
MAP



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EXHIBIT "B" PAGE 1 OF 2 LEGAL DESCRIPTION

EXHIBIT 'B' LEGAL DESCRIPTION

USA-CoE Annexation
The Kelly-Springfield Tire Company Tract - 5.00-Ft. Wide Strip

Part One

All that certain tract or parcel of land situated in the Richard Alston Survey, Abstract 43, Smith County, Texas, being out of and a part of the residue of that certain called 10.730 acre tract described in a Warranty Deed from D.H. Stephenson et ux Martha Catherine Stephenson to The Kelly-Springfield Tire Company, dated June 28, 1973, and recorded in Volume 1465, Page 452 of the Deed Records of Smith County, Texas, and being more particularly described by bounds as follows:

Being a 5.00 foot wide strip of land adjoining the west boundary line of said residue of said 10.730 acre tract, same being the east right-of-way line of F.M. Road 206, said 5.00 foot wide strip extending in an easterly direction from said west boundary line, from the southernmost corner of said 10.730 acres, in a northeasterly direction along said east right-of-way line (record: North 05°38'46" West, 640.11 feet; North 25°19'04" East, 116.62 feet; North 05°38'46" West, 420.00 feet; North 14°54'56" East, 167.63 feet), to the point of intersection of said east right-of-way line with the north boundary line of said 10.730 acres, said point of intersection being in the south-right-of-way line of State Highway 31.

Part Two

All that certain tract or parcel of land situated in the Richard Alston Survey, Abstract 43, and the William Cox Survey, Abstract 234, Smith County, Texas, being out of and a part of the residue of that certain called 107.232 acre tract described in a Warranty Deed from The Tyler Industrial Foundation, Inc., to The Kelly-Springfield Tire Company, dated May 25, 1961, and recorded in Volume 1010, Page 814 of the Deed Records of Smith County, Texas, and being more particularly described by bounds as follows:

Being a 5.00 foot wide strip of land adjoining the north boundary line of said residue of said 107.232 acre tract, same being the south right-of-way line of State Highway 31, said 5.00 foot wide strip extending in a southerly direction from said north boundary line, from the point of intersection of said north boundary line with the west right-of-way line of F.M. Road 206, in a westerly direction along said south right-of-way line (record: North 85°23'00" East) a calculated distance of 481 feet to a point being a distance of 5.00 feet beyond the point of intersection of said south right-of-way line with the southerly projection of the east boundary line (record: South 00°17'47" East) of that certain called 45.556 acre tract described in a Deed from East Texas Oaks, L.P., and recorded under Clerk's File Number 2006-R00033034 of the Official Public Records of Smith County, Texas.

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EXHIBIT "B"
PAGE 2 OF 2
LEGAL DESCRIPTION

Exhibit 'A'
Kelly-Springfield
Page 2

Part Three

All that certain tract or parcel of land situated in the Richard Alston Survey, Abstract 43, Smith County, Texas, being out of and a part of the right-of-way of F.M. Road 206, and being more particularly described by bounds as follows:

Being a 5.00 foot wide strip of land adjoining the north right-of-way line (record: South 59°15'40" West, 119.24 feet; North 79°42'14" West, 261.27 feet) of said F.M. Road 206, same being the south right-of-way line of State Highway 31, said 5.00 foot wide strip extending in a southerly direction from said north right-of-way line, from the northeast corner of said F.M. 206 right-of-way, in a westerly direction to the northwest corner of said F.M. Road 206.

Part Four

All that certain tract or parcel of land situated in the William Cox Survey, Abstract 234, Smith County, Texas, being out of and a part of the right-of-way of State Highway 31, and being more particularly described by bounds as follows:

Being a 5.00 foot wide strip of land adjoining the southerly projection of the east boundary line of that certain called 45.556 acre tract described in a Deed from East Texas Oaks, L.P., and recorded under Clerk's File Number 2006-R00033034 of the Official Public Records of Smith County, Texas, said 5.00 foot wide strip extending in a westerly direction from said southerly projection of said east boundary line (record: South 00°17'47" East), from the southeast corner of said 45.556 acres, said corner being in the north right-of-way line of said State Highway 31, to the point of intersection (record: 192 feet) and point of terminus of said southerly projection with the south right-of-way line (record: North 85°23'00" East) of said State Highway 31.

This document was prepared under 22 TAC Section 663.21, does not reflect the results of an on-the-ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared. All bearings and distances recited are record information per deeds of conveyance.)

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EXHIBIT "C"
PAGE 1 OF 6
OWNERS PETITION



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 owner of the hereinafter described tract of land hereby requests 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:

A five foot wide strip of land located along a portion of the northern border of our property and east of FM 206 as shown in pink on Exhibit "A" attached hereto and made a part hereof.

Being the above described area is one-half (1/2) mile or less in width and is sparsely populated, the owner requests 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 the undersigned owner, hereby certifies that, to its knowledge, the tract described on FORM A and shown on Exhibit "A" attached hereto and made a part hereof, 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, the undersigned owner of real property in the area to be annexed, requests annexation of this area, pursuant to Texas Local Government Code Section 43.028, by signing this petition on the date shown below.

THE GOODYEAR TIRE & RUBBER COMPANY


A J Delguyd


Director Real Estate

4-9-09
DATE

(ACKNOWLEDGMENT)

THE STATE OF OHIO
COUNTY OF SUMMIT

This petition was acknowledged before me on the 9th day of April, 2009 by A J Delguyd, Director Real Estate for The Goodyear Tire & Rubber Company.


Notary Public
State of Ohio

RITA L. HORTON, Notary Public
Residence - Summit County Reviewed
State Wide Jurisdiction Ohio
My Commission Expires Aug. 29, 2009

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EXHIBIT "C"
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OWNERS PETITION



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):

Agricultural

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

As an accommodation to, at the request of and to enable the City of Tyler, Texas to annex a tract of land to the north of our property, for the potential use as an Army National Guard Facility, with the understanding that the property will not be subject to taxes by the City or charges for police, fire or other City services.

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

Vacant, no structures

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)

City will provide this information

5. Any additional information that you wish to provide concerning your annexation request:

N/A

SIGNED: THE GOODYEAR TIRE & RUBBER
COMPANY


A J Delguyd, Director Real Estate

330-796-9274
Owner's Telephone Number

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EXHIBIT "C"
PAGE 3 OF 6
OWNERS PETITION



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. The Goodyear Tire & Rubber Company, Attn: Real Estate Department, 1144 East Market Street, Akron, Ohio 44316	
2. N/A	
3. N/A	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	

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EXHIBIT "C"
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OWNERS PETITION



FORM B

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: The Goodyear Tire & Rubber Company


A J Duguid, Director Real Estate

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EXHIBIT "C"
PAGE 5 OF 6
OWNERS PETITION



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) N/A 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>N/A</u>	
2. _____	
3. _____	
4. _____	
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 & C as "Agent".)

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EXHIBIT "C"
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OWNERS PETITION



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 of the area to be annexed, hereby makes application for the original zoning of the area to be annexed (insert zoning classification desired) "AG", Agricultural. 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

The Goodyear Tire & Rubber Company

By: A J Deiguyd
A J Deiguyd, Director Real Estate

N/A
N/A

* 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.

