

ORDINANCE NO. O-2009-56

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 ALL SAINTS EPISCOPAL SCHOOL ANNEXATION APPLICATION A05-09-002; CONSTITUTING APPROXIMATELY 115 ACRES OF LAND AS DESCRIBED BY A METES AND BOUNDS DESCRIPTION, LOCATED AT 2695 LOOP 323 SSW, NORTH OF THE INTERSECTION OF BRIARWOOD DRIVE AND LOOP 323; 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 27th day of May, 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 115 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 115 acres for "INT", Institutional District, as shown on Exhibit "D", hereinabove mentioned.

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

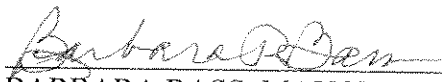
PART 6: That the Planning and Zoning Department shall send to the Texas Secretary of State a copy of the ordinance and statement that the annexation is not involved in any litigation.

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 27th day of May A. D., 2009.

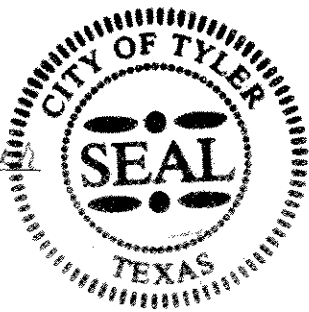


BARBARA BASS, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:



CITY CLERK



APPROVED:

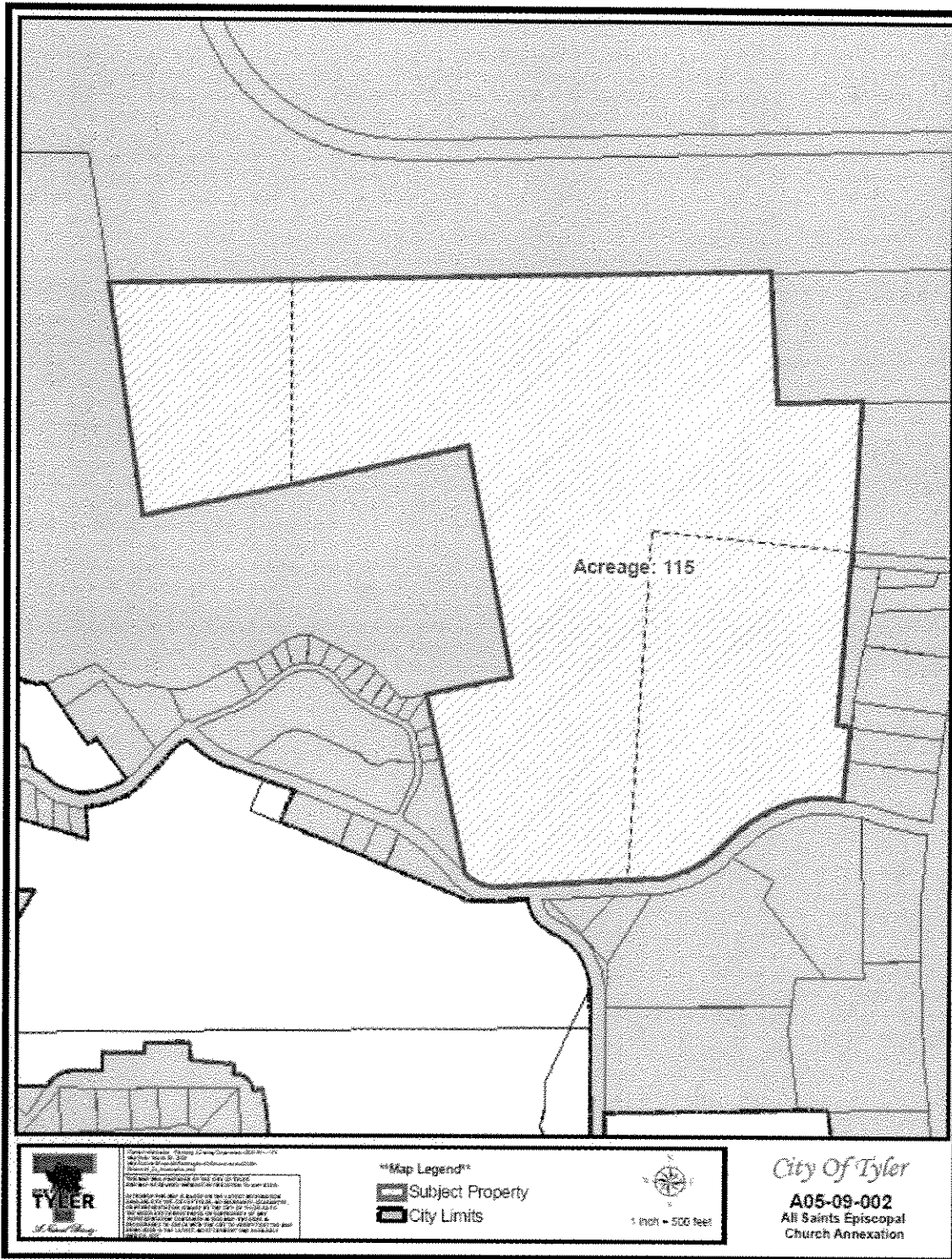


CITY ATTORNEY

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

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EXHIBIT "A"
MAP



ORDINANCE NO. 0-2009-56

EXHIBIT "B"
LEGAL DESCRIPTION
PAGE 1 OF 3



- Surveying
- Mapping
- Planning

6712 Paluxy Drive • Tyler, Texas 75703 • 903.581.7800 • 903.581.3756

EXHIBIT "A"
All Saints Episcopal School Property
Proposed Annexation

BEING an approximately 115 acre tract of land, part of the George Myers Survey, Abstract No. 643, the J. M. Edwards Survey, Abstract No. 1113, and S. A. & M. G. Railroad Company Survey, Abstract No. 963, Smith County, Texas, part of a called a 100.3411 acre tract described as Tract A in a Deed from First Savings Association of Southeast Texas to All Saints Episcopal School recorded in Volume 3282, Page 232 of the Smith County Deed Records, part of a called 1.7311 acre tract from W. W. Wagley to All Saints Episcopal School described in a Deed recorded in Volume 2496, Page 286, and all of a called 20.0 acre tract from W. W. Wagley to All Saints Day School recorded in Volume 2070, Page 302 of said Smith County Deed Records, said 115 acre tract being more particularly described as follows:

BEGINNING at a ½" steel pin on the common line between the said J. M. Edwards Survey, Abstract No. 1113 and the said S. A. & M. G. Railroad Co. Survey, Abstract No. 963, said pin also being the Northwest corner of a 12.22 acre tract held by WalMart Stores, Inc., as described in a Deed found in Volume 2546, Page 268 of the Deed Records of Smith County, Texas;

THENCE with the West line of said 12.22 acre tract, South 00 degrees 35 minutes 07 seconds East, a distance of 572.32 feet to a ½" steel pin at the Southwest corner of a 0.2134 acre tract also held by WalMart Stores, Inc., as described in a Deed recorded in Volume 3236, Page 639 of the above mentioned Deed Records of Smith County, Texas, and said 0.2134 acre tract lying adjacent to and along the South side of the above said 12.22 acre tract;

THENCE with the South line of said 0.2134 acre tract, South 89 degrees 45 minutes 56 seconds East, a distance of 457.99 to a ½" steel pin for corner in same;

THENCE with the South line of said 0.2134 acre tract, North 56 degrees 56 minutes 53 seconds East, a distance of 19.61 to a ½" steel pin for corner in same;

THENCE with the South line of said 0.2134 acre tract, North 87 degrees 26 minutes 39 seconds East, a distance of 7.36 feet to a point at the intersection of same with a line being 575 feet West of and parallel to the centerline of the West traffic lane of West Loop 323 as shown on the Texas Highway Department construction plans dated July 17, 1956;

THENCE with said line being 575 feet West of and parallel to the centerline of the West traffic lane of West Loop 323, South 03 degrees 56 minutes 52 seconds West, a distance of 382.17 feet to a point at the beginning of a curve to the right;

THENCE with said line being 575 feet West of and parallel to the centerline of the West traffic lane of West Loop 323 and said curve to the right having central angle of 02 degrees 49 minutes

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EXHIBIT "B"
LEGAL DESCRIPTION
PAGE 2 OF 3

08 seconds, a radius of 5148.08 feet, a length of 253.29 feet, and a chord which bears South 05 degrees 21 minutes 26 seconds West, a chord distance of 253.26 feet to a point at the intersection of same with the North boundary line of a called 1.7311 acre tract from W. W. Wagley to All Saints Episcopal School described in a Deed recorded in Volume 2496, Page 286 of said Smith County Deed Records;

THENCE with the North line of said 1.7311 acre tract, North 86 degrees 31 minutes 38 seconds West, a distance of 79.91 feet to a point for corner;

THENCE South 03 degrees 55 minutes 52 seconds West, a distance of 1068.74 feet to a ½" iron rod for the Southeast corner of the aforementioned 20.0 acre All Saints Episcopal School tract in Volume 2070, Page 302, said iron rod also being in the North right-of-way line of County Road 1159, Briarwood Road, (60-foot wide right-of-way), and at the beginning of a curve to the left;

THENCE with the South line of said 20.0 acre tract, said North right-of-way line of County Road 1159, Briarwood Road, and said curve to the left having central angle of 38 degrees 24 minutes 32 seconds, a radius of 508.00 feet, a length of 340.54 feet, and a chord which bears South 69 degrees 51 minutes 20 seconds West, a chord distance of 334.20 feet to a ½" iron rod for corner;

THENCE with the South line of said 20.0 acre tract and said North right-of-way line of County Road 1159, Briarwood Road, South 50 degrees 39 minutes 04 seconds West, a distance of 235.04 feet to a ½" iron rod for corner at the beginning of a curve to the right;

THENCE with the South line of said 20.0 acre tract, said North right-of-way line of County Road 1159, Briarwood Road, and said curve to the right having a central angle of 35 degrees 51 minutes 37 seconds, a radius of 448.00 feet, a length of 280.39 feet, and a chord which bears South 68 degrees 34 minutes 52 seconds West, a chord distance of 275.84 feet to a ½" steel pin at the Southwest corner of said 20.0 acre tract from W. W. Wagley to All Saints Day School described in a Deed recorded in Volume 2070, Page 302 of the Smith County Deed Records, same being the most Southerly Southeast corner of the aforementioned 100.3411 acre tract described as Tract A in aforesaid Deed recorded in Volume 3282, Page 232 of said Smith County Deed Records;

THENCE with said North right-of-way line of County Road 1159, Briarwood Road, South 86 degrees 38 minutes 21 seconds West, a distance of 603.79 feet to a ½" steel pin at the P.C. of a curve to the right;

THENCE with said curve to the right, having a radius of 188.92 feet, a length of 119.84 feet, and a chord which bears North 75 degrees 11 minutes 18 seconds West, a distance of 117.84 feet to a ½" steel pin in said North line of Briarwood Road at the intersection with East line of a 285.1471 acre tract held by the City of Tyler, as recorded in a Deed filed in Volume 2564, Page 552 of the above mentioned Deed Records;

THENCE North 13 degrees 07 minutes 56 seconds West with said East line, a distance of 814.02 feet to a ½" steel pin at a corner point;

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EXHIBIT "B"
LEGAL DESCRIPTION
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THENCE North 77 degrees 40 minutes 04 seconds East a distance of 346.43 feet to a ½" steel pin at a corner point;

THENCE North 13 degrees 07 minutes 56 seconds West a distance of 1002.33 feet to a 1" iron pin at a corner point;

THENCE South 77 degrees 48 minutes 45 seconds West a distance of 1404.12 feet to a ½" steel pin at a corner point;

THENCE North 12 degrees 27 minutes 11 seconds West a distance of 957.59 feet to a ½" steel pin at the Northwest corner of this 100.3411 tract;

THENCE North 87 degrees 02 minutes 34 seconds East a distance of 2841.33 feet to the POINT OF BEGINNING containing approximately 115 acres.

NOTE: This document was prepared under 22 TAC 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.

GIVEN UNDER MY HAND AND SEAL, this 17th day of December, 2008.

Roland Navarro

Roland Navarro, R.P.L.S. 5876

200070Annexationfn.doc



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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

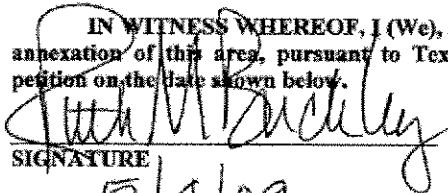
The undersigned owners of the hereinafter described tract of land hereby request your Honorable Body to extend the present City limits so as to include as a part of the City of Tyler, Texas, the following described territory (complete and accurate field notes must be attached; a metes and bounds description is required), to-wit:

see attached notes and description

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.


SIGNATURE

Ruth M. Buckley
PRINT NAME

5/4/09
DATE

(ACKNOWLEDGMENT)

THE STATE OF TEXAS
COUNTY OF SMITH

This petition was acknowledged before me on the 4th day of MAY 2009,
by A. QUARTON


Notary Public
State of TEXAS



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Exhibit "C"
Page 2 of 7



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.

SIGNATURE _____
DATE _____
SIGNATURE Ruth M Buckley
DATE 5/4/09

PRINT NAME _____
PRINT NAME Ruth M Buckley

(ACKNOWLEDGMENT)

THE STATE OF TEXAS
COUNTY OF SMITH

This petition was acknowledged before me on the 4th day of May 2009,
by A. Quarton.



A. Quarton
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

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):
All Saints Episcopal School

2. I (We) am/are requesting this annexation for the following reason(s):
Voluntary annexation requested by the City of Tyler

3. State present use and condition of property and/or structures:
4k - 12 private school and related school activities

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)
currently serviced by city services

5. Any additional information that you desire to provide concerning your annexation request:
See attached Lake use Agreement

903-579-6000

Owner's Telephone Number

903-579-6000

Agent's Telephone Number

SIGNED:

OWNER (of property to be annexed)

OR

Ruth Buckley - Board President
Ruth Buckley

AGENT (When applicable - See Form E)

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Exhibit "C"
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FORM C

LIST OF OWNERS OF SURROUNDING PROPERTY

List the name and address of the owner of every piece of property within the City limits which is within 200 feet of any part of the property to be annexed. Signatures are not required. This list is for sending notices required by state law. The best source for this list is the Smith County Appraisal District, 245 East Southeast Loop 323.

Please print clearly or type, one name and mailing address per block. Please request additional pages if necessary.

LOT	BLOCK	LOT	BLOCK	LOT	BLOCK
LOT	BLOCK	LOT	BLOCK	LOT	BLOCK
LOT	BLOCK	LOT	BLOCK	LOT	BLOCK
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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.

<u>NAME AND AGE</u>	<u>MAILING ADDRESS</u>
1.	
2.	NA
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

SIGNED:

Owner et al (of property to be annexed)

Agent (when applicable - See Form E)

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Exhibit "C"
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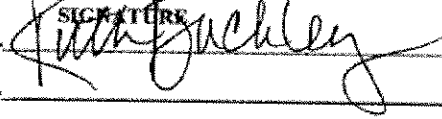


FORM E

AUTHORIZATION OF AGENT

We, the undersigned, being owners of real property to be annexed according to this Application, do hereby authorize (print name and address of agent) Ruth Buckley - Board of Trustees
President - All Saints Episcopal School 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.		
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 & G as "Agent".)



FORM G

PETITION FOR ORIGINAL ZONING OF AREA TO BE ANNEXED

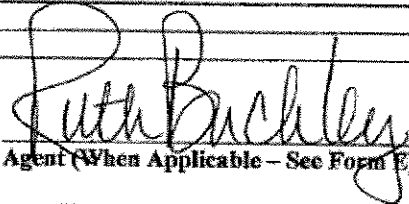
Before the City Planning and Zoning Commission and the City Council
of the City of Tyler, Texas

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) Institutional. 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


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 area of the City for which the annexed area will become a part.

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EXHIBIT "D"
Zoning Map

