

**ORDINANCE NO. O-2009-71**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, PROVIDING FOR THE ANNEXATION OF CERTAIN SPARSELY OCCUPIED AND OWNER-REQUESTED TERRITORY AND REFERRED TO AS THE ANNEXATION APPLICATION A06-09-004; CONSTITUTING APPROXIMATELY 6.451 ACRES OF LAND AS DESCRIBED BY A METES AND BOUNDS DESCRIPTION, LOCATED ONE LOT WEST OF THE NORTHWEST INTERSECTION OF UNIVERSITY BOULEVARD AND COUNTY ROAD 272, AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE CITY OF TYLER EXTRATERRITORIAL JURISDICTION; ADJUSTING THE BOUNDARY OF THE CITY COUNCIL DISTRICT # 4; 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 24th day of June, 2009, 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 6.451 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 6.451 acres for "RPO", Restricted Professional Office District, as shown on Exhibit "D", hereinabove mentioned.

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

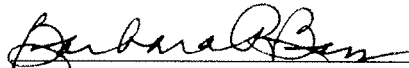
**PART 6:** That the Planning and Zoning Department shall send to the Texas Secretary of State a copy of the ordinance and statement that the annexation is not involved in any litigation.

**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 24<sup>th</sup> day of June A. D., 2009.

  
\_\_\_\_\_  
BARBARA BASS, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
\_\_\_\_\_  
CITY CLERK



APPROVED:

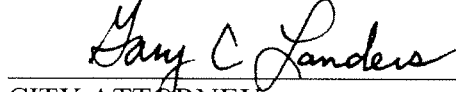
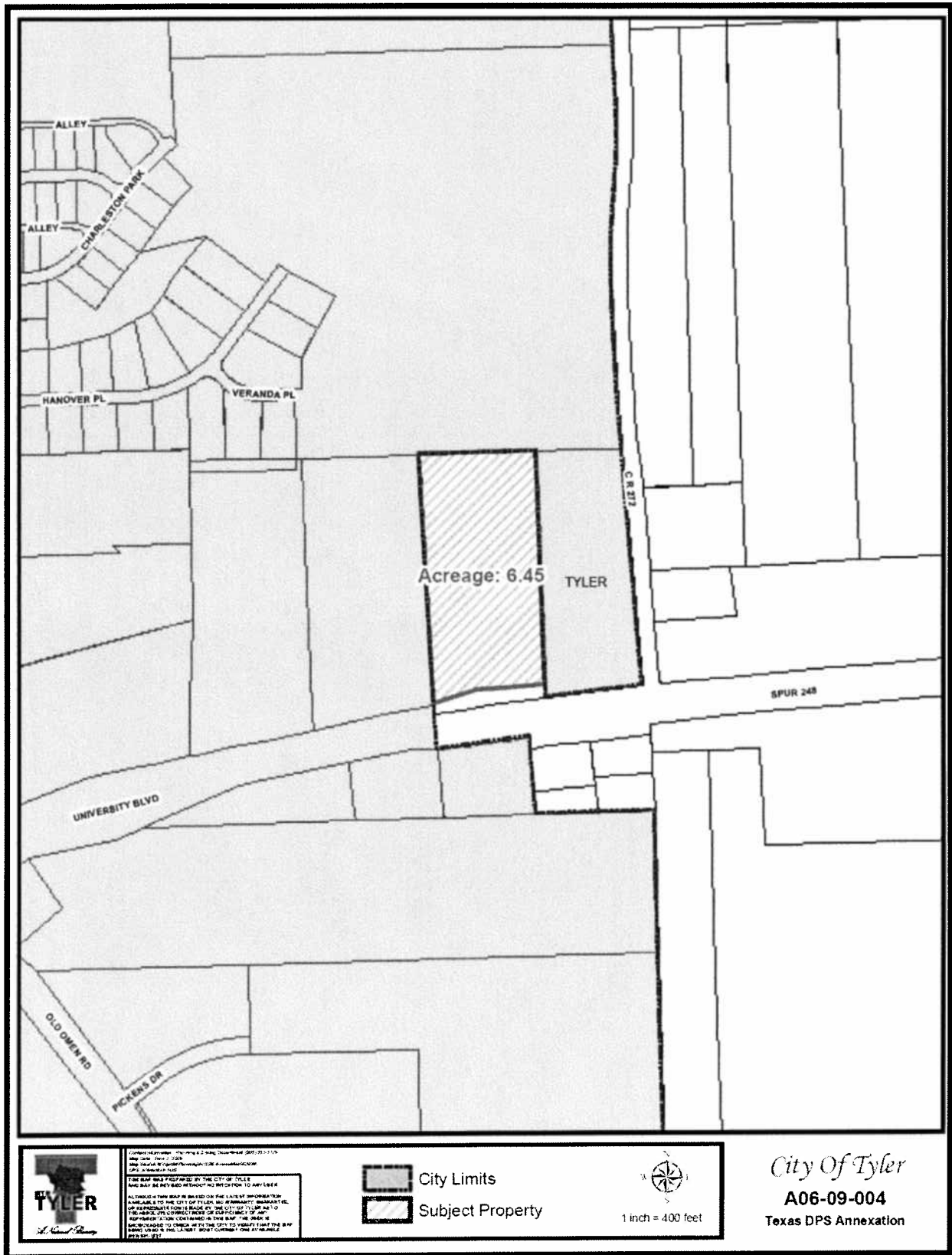
  
\_\_\_\_\_  
CITY ATTORNEY

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

ORDINANCE NO. 0-2009-71

EXHIBIT "A"  
MAP



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EXHIBIT "B" PAGE 1 OF 2  
LEGAL DESCRIPTION

125- ANNUITY DEED

TEXAS STANDARD FORM

The State of Texas, } 13020 VOL 2102 PAGE 639  
County of SMITH } Know All Men by These Presents:  
That HARRY S. PHILLIPS, and BETTYE PHILLIPS

of the County of Smith, State of Texas, for and in consideration  
of the sum of TEN AND NO/100 - - (\$10.00) - - - - -  
and other good and valuable consideration, DOLLARS  
to me in hand paid by THE STATE OF TEXAS for the use and benefit of  
the Department of Public Safety,  
as follows:

CASH, the receipt and sufficiency of which is hereby acknowledged;

1968 APR 15 PM 02 25  
SMITH COUNTY CLERK  
BY *[Signature]*  
CLERK

have Granted, Sold and Conveyed, and by these presents do Grant, Sell and Convey, unto the said  
STATE OF TEXAS, for the use and benefit of the Department of  
Public Safety,

of the County of State of Texas, all that certain

tract or parcel of land being 6.451 acres of land situated within the  
Wm. Keys Survey, Abstract No. 526, Smith County, Texas and being a  
part of Tract No. 3 as described in Decree of Partition of the Estate  
of Martha Jane Sampson, dated July 3, 1961, and recorded in Volume  
1015 on page 418 of the Deed Records of Smith County, Texas and being  
situated on the North side of Spur Hwy. No. 248 and more fully  
described as follows:

BEGINNING at a 1/2" Iron Rod found at the Northeast corner of Tract  
No. 3 of said partition same being the Northwest corner of Tract No.  
4;

THENCE S 00 deg. 42 min. 23 sec. E. - 788.96' with the East line of  
Tract No. 3 same being the West line of Tract No. 4 to a 1/2" Iron  
Rod found for the Southeast corner of this tract in the North right-  
of-way line of said Spur 248;

THENCE S 84 deg. 34 min. 11 sec. W. - 210.83' with said right-of-way  
to a concrete monument found in same;



EXHIBIT "C"  
OWNER PETITION

Page 1 of 7

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.

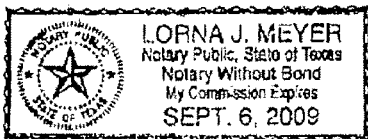
*Oscar Ybarra*  
SIGNATURE  
5/27/09  
DATE

Oscar Ybarra  
PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF TEXAS  
COUNTY OF WILLIAMSBURG TRAVIS

This petition was acknowledged before me on the 28<sup>th</sup> day of May,  
2009 by Oscar Ybarra.



*Lorna J Meyer*  
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.

*Oscar Ybarra*  
SIGNATURE  
5/28/09  
DATE

Oscar Ybarra  
PRINT NAME

\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF TEXAS  
COUNTY OF TRAVIS

This petition was acknowledged before me on the 28<sup>th</sup> day of May,  
2009 by Oscar Ybarra.

*Sandra J. Meyer*  
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 \_\_\_\_\_

ORDINANCE NO. 0-2009-71

Exhibit "C"  
Page 3 of 7



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):

Continuation of use as District Office for Texas Department of Public Safety

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

To access city water for domestic and fire protection (hydrant) use.

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

Use for District Office and in good condition.

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 Attachment

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

512-424-2062  
Owner's Telephone Number

SIGNED:

Tom Haas  
OWNER (of property to be annexed)

for Oscar Ybarra

OR

\_\_\_\_\_  
Agent's Telephone Number

\_\_\_\_\_  
AGENT (When applicable - See Form E)



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.	Texas Department of Public Safety P. O. Box 4087, Austin, TX 78773
2.	_____
3.	_____
4.	_____
5.	_____
6.	_____
7.	_____
8.	_____
9.	_____
10.	_____
11.	_____
12.	_____
13.	_____
14.	_____
15.	_____
16.	_____
17.	_____
18.	_____
19.	_____
20.	_____



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. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_

N/A

SIGNED:

Owner et al (of property to be annexed)

Agent (when applicable – See Form E)



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) \_\_\_\_\_ 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. _____	_____
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".)

N/A



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) RPO. 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

*Tom Haas*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

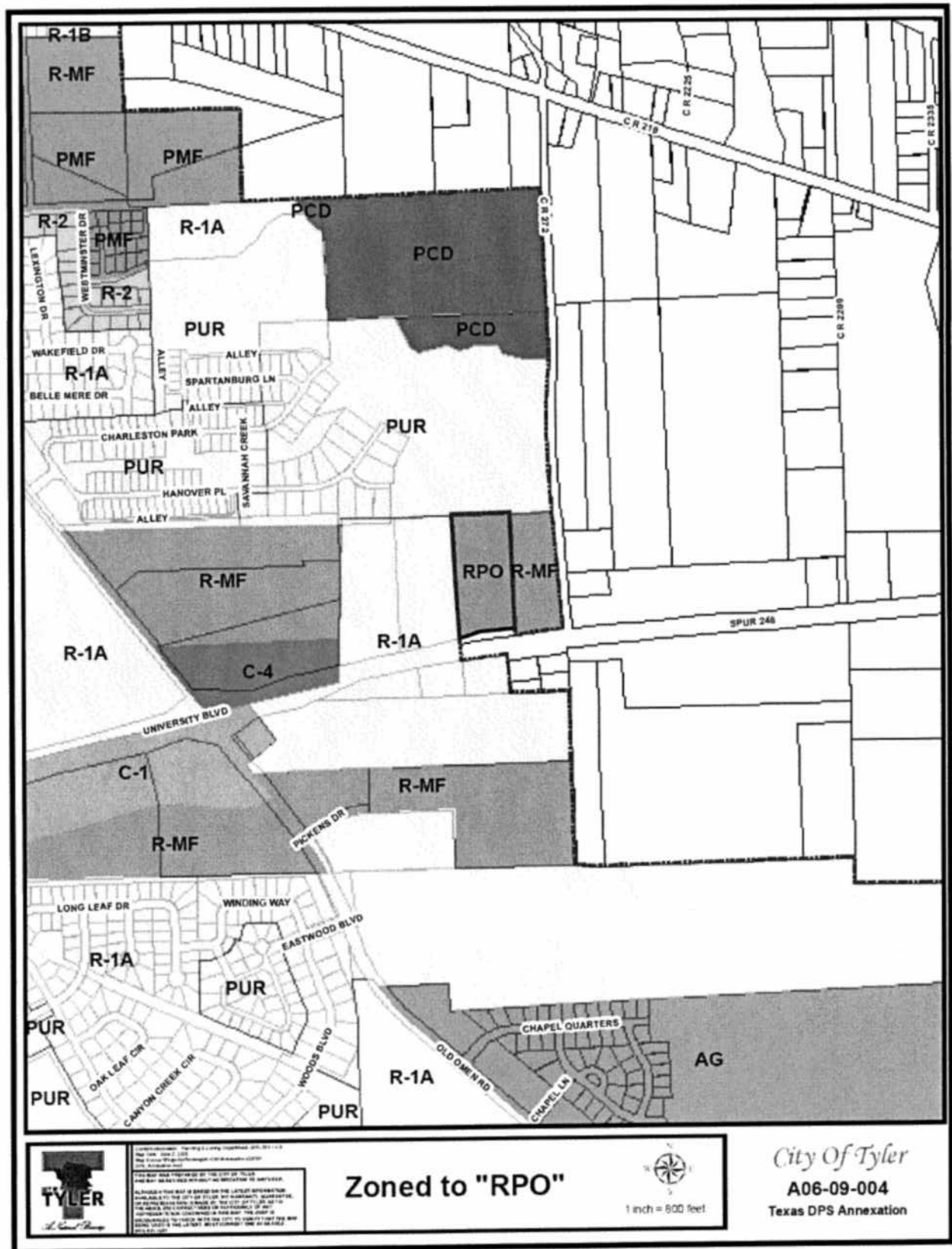
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
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.

ORDINANCE NO. 0-2009-71

EXHIBIT "D"  
Zoning Map



Ordinance No. 0-2009-71, adopted by the City Council of the City of Tyler, Texas, on 09/09/09.  
The City of Tyler, Texas, is hereby certifying that this Ordinance is in compliance with the Texas State Constitution and the Texas Local Government Code.  
This Ordinance shall be effective on the date of its adoption, unless otherwise provided.  
ATTEST: My hand and the seal of the City of Tyler, Texas, this 9th day of September, 2009.  
CITY CLERK

**Zoned to "RPO"**



City Of Tyler  
A06-09-004  
Texas DPS Annexation