

**ORDINANCE NO. O-2017-46**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, PROVIDING FOR THE ANNEXATION OF CERTAIN TERRITORY REFERRED TO AS WEST CUMBERLAND LOCATED ADJACENT TO THE PRESENT SOUTHERN AND WESTERN BOUNDARY LIMITS OF THE CITY OF TYLER, AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE CITY OF TYLER EXTRATERRITORIAL JURISDICTION; ADJUSTING THE BOUNDARY OF THE CITY COUNCIL DISTRICTS #1 AND #2; ESTABLISHING THE INITIAL LAND USE DESIGNATION; PROVIDING FOR ORIGINAL ZONING; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, public hearings were held before the City Council of the City of Tyler, Texas, on the 17<sup>th</sup> day of May, 2017, and on the 24<sup>th</sup> day of May, 2017, 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 dates are not more than forty (40) nor less than twenty-one (21) days prior to the consideration of the annexation ordinance; and

**WHEREAS**, notices of such public hearings held in the Council Chambers, City Hall were published prior thereto in a newspaper having general circulation in the City of Tyler, Texas, and in the hereinafter described territory on the 4<sup>th</sup> day of May, 2017, and on the 10<sup>th</sup> day of August, 2016, which date was not more than twenty (20) nor less than eleven (11) days prior to the date of such public hearings; and

**WHEREAS**, notices of such public hearings held in the Council Chambers, City Hall were posted prior thereto on the City's internet website, which date was not more than twenty (20) nor less than eleven (11) days prior to the date of such public hearings; and

**WHEREAS**, the population of the City of Tyler, Texas, is in excess of 100,000 inhabitants; 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 158.5 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 and 10-801, and Chapter 43 of the Texas Local Government Code, 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 are hereby incorporated herein. The present boundary limits of such City, at the various points contiguous to the areas being annexed, are hereby 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 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 Tyler City Code Chapter 10, "Tyler Unified Development Code", Article IV., "Subdivision Design and Improvements", Division E., "Participation and Escrow Policies", is hereby amended by amending the list of annexations in Section 10-143 to add this Ordinance Number, with no other changes.

**PART 3:** 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 of the citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City of Tyler, Texas.

**PART 4:** That the Service Plan attached as Exhibit "C" is hereby adopted as part of this ordinance and is incorporated herein.

**PART 5:** That upon final passage, the annexed area shall be zoned as "R-1B", Single-Family Residential District and "C-1", Light Commercial District as shown on Exhibit "D", hereinabove mentioned and incorporated herein.

**PART 6:** That the initial Land Use Designation for the annexed area is hereby established as Neighborhood Commercial and Single-Family Medium/Low Density, and it is directed that the Land Use Guide be amended to reflect said uses.

**PART 7:** That the annexed area shall be added to the Central District #1 and West District #2, City Council single member districts and the official Voting District Map amended accordingly.

**PART 8:** That said annexation is contingent upon and shall not become effective until and unless the applicant provides to City evidence of proposed deed restrictions to only allow townhouse style development, and also a plat, drawing or other evidence showing the proposed reconfiguration of the streets to the satisfaction of the City.

**PART 9:** That the Planning 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 10:** 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 11:** That within thirty (30) days of notice of U. S. Justice Department approval of this annexation, the Planning 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. The Planning Department shall also file annexation information with the Smith County Appraisal District and anyone else who has requested such information.

**PART 12:** That certified notice of the Annexation shall be sent by the Legal Department to any Emergency Services District that is located within the annexed area.

**PART 13:** Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

**PART 14:** 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 14<sup>th</sup> day of June A. D., 2017.

  
\_\_\_\_\_  
MARTIN HINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

  
\_\_\_\_\_  
CASSANDRA BRAGER, CITY CLERK



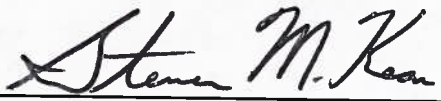
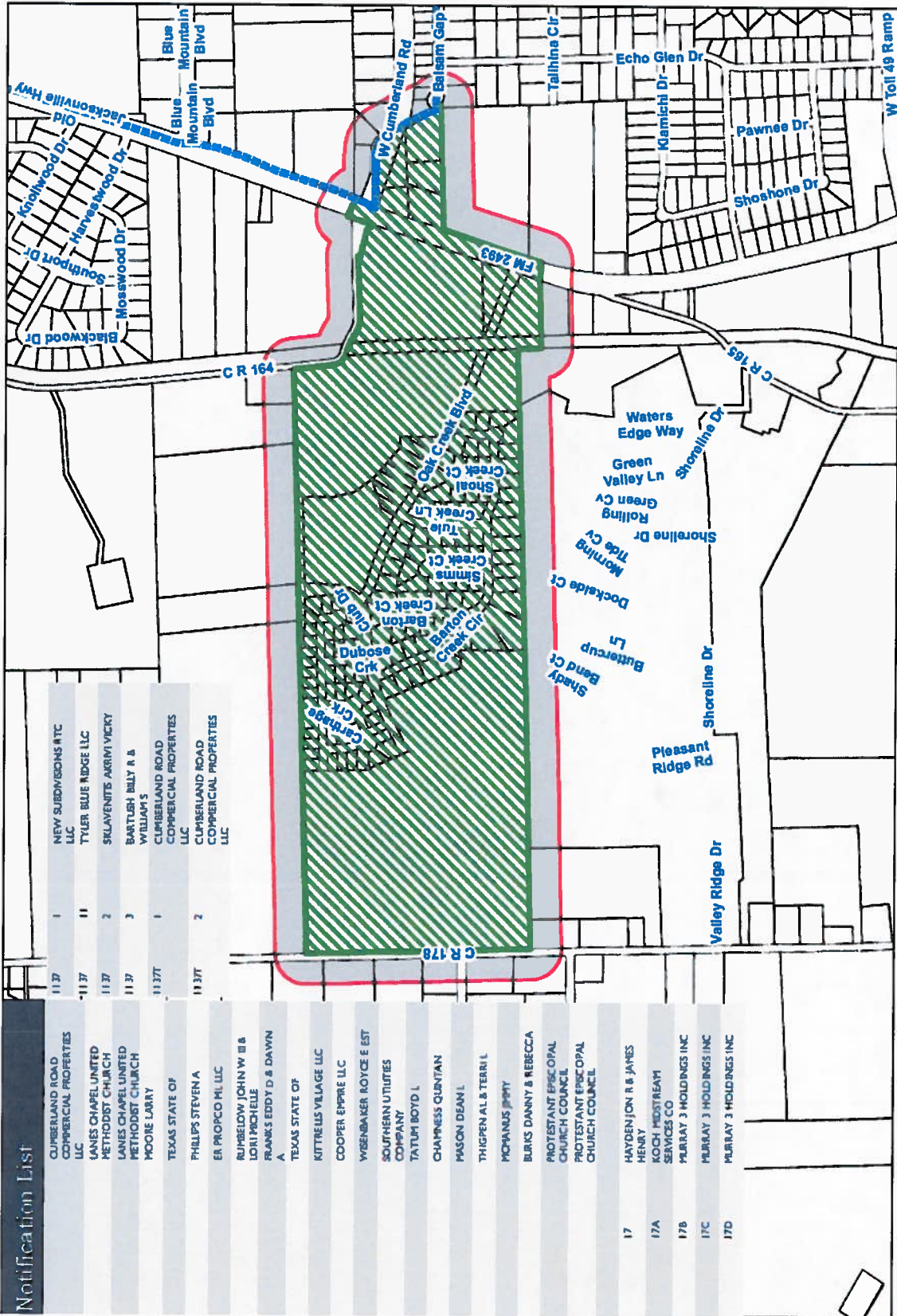
  
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STEVEN M. KEAN,  
DEPUTY CITY ATTORNEY

Exhibit A = location map  
Exhibit B = legal description  
Exhibit C = service plan  
Exhibit D = zoning map

**ORDINANCE NO. O-2017-46  
EXHIBIT "A"  
LOCATION MAP**



**Notification List**

1137	CUMBERLAND ROAD COMMERCIAL PROPERTIES LLC	NEW SUBDIVISIONS ATC LLC
1137	JAMES CHAPEL UNITED METHODIST CHURCH	TYLER BLUE RIDGE LLC
1137	JAMES CHAPEL UNITED METHODIST CHURCH	SKLAVENITS AKRIM VICKY
1137	MOORE LARRY	BARTLIGH BILLY R & WILLIAM'S
1137T	TEXAS STATE OF	CLIMBERLAND ROAD COMMERCIAL PROPERTIES LLC
1137T	PHILLIPS STEVEN A	CLIMBERLAND ROAD COMMERCIAL PROPERTIES LLC
1137T	ER PROPCO PL LLC	
1137T	RUMBELOW JOHN W III & LORI MICHELLE	
1137T	FRANKS EDDY D & DAWN A	
1137T	TEXAS STATE OF	
1137T	KITTRILLS VILLAGE LLC	
1137T	COOPER EMPIRE LLC	
1137T	WISENBAKER ROYCE E EST	
1137T	SOUTHERN UTILITIES COMPANY	
1137T	TATUM BOYD L	
1137T	CHAMNESS QUINTAN	
1137T	MASON DEAN L	
1137T	THEPEN AL & TERN L	
1137T	MCPHANS JIMMY	
1137T	BLIKS DANNY & REBECCA	
1137T	PROTESTANT EPISCOPAL CHURCH COUNCIL	
1137T	PROTESTANT EPISCOPAL CHURCH COUNCIL	
1137T	HAYDEN JON R & JAMES HENRY	
1137T	KOCH MIDSTREAM SERVICES CO	
1137T	MURRAY 3 HOLDINGS INC	
1137T	MURRAY 3 HOLDINGS INC	
1137T	MURRAY 3 HOLDINGS INC	

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



**ANNEXATION CASE**  
Case #: A17-003  
Original Zoning: R-1A and C-1

Subject Property  
 200 Notification Buffer  
 City Limits



**ORDINANCE NO. O-2017-46**  
**EXHIBIT "B"**  
**LEGAL DESCRIPTION**

**BEING a 158.5 acre tract of land** situated in the Don Thomas Quevado Seven League Grant, Section No. 4, Abstract No. 18, and being part of a called 65.264 acre tract, (Tract Two) described in a Deed from Lenard R. McMillin to Tyler Oak Creek Development, LLC, and a called 63.830 acre tract, (Tract One) described in a Deed from Lenard R. McMillin to Tyler Oak Creek Development, LLC, both recorded under Clerk's File No. 2014-24651, part of a called 29.84 acre tract, (Parcel 16) described in a Deed to the State of Texas recorded in Volume 4003, Page 144 of the Official Public Records of Smith County, Texas, (O.P.R.S.C.T.), part of Lot 5, Unit 1 of Boris Park per Final Plat thereof recorded in Cabinet D, Slide 338-B, Lots 4-A, 4-B, and Oak Creek Boulevard right of way of Boris Park, Unit One per First Amendment Plat of Boris Park Unit One recorded in Cabinet E, Slide 297-D of the Plat Records of Smith County, Texas, (P.R.S.C.T.), part of West Cumberland Road and Farm to Market Highway No. 2493, (Old Jacksonville Highway) rights of way, all of a called 0.519 acre tract, (Tract One) and a called 2.516 acre tract, (Tract Two), both described in a Deed from Cecil E. Tate and Marilyn Tate, a married couple to 49-2493, LLC recorded under Clerk's File No. 20160100028263, O.P.R.S.C.T., all of a called 0.770 acre tract described in a Deed from Kevin D. Tate to 49-2493, LLC recorded under Clerk's File No. 20160100028264, O.P.R.S.C.T., and all of a called 1.184 acre tract described in a Deed from Tonda Lynn Curry to Keith T. & Vickie R. Intelhouse recorded under Clerk's File No. 2010-R00019045, O.P.R.S.C.T., said 158.5 acre tract being more completely described by metes and bounds as follows:

**BEGINNING** at a Steel Spindle found at the Southwest corner of said 65.264 acre tract;

**THENCE** North 01 degree 23 minutes 52 seconds West, a distance of 719.77 feet along the West boundary line of said 65.264 acre Tract Two to a Steel Spindle found at the Northwest corner of same, also being the Southwest corner of said 63.830 acre Tract One;

**THENCE** North 01 degree 24 minutes 23 seconds West, a distance of 719.62 feet along the West boundary line of said 63.830 acre Tract One to a point for the Northwest corner of same;

**THENCE** North 88 degrees 21 minutes 42 seconds East, a distance of 3936.11 feet along the North boundary line of said 63.830 acre Tract One and across said 29.84 acre State of Texas Parcel 16 to a point for corner in the East boundary line of same;

**THENCE** South 06 degrees 05 minutes 24 seconds East, a distance of 328.79 feet along the East boundary line of said 29.84 acre tract and the West boundary line of a called 15.061 acre tract described in a Deed from Kittrell's Village, LLC to Cecil Tate recorded under Clerk's File No. 2013 00020121, O.P.R.S.C.T. to a 1/2" iron rod with plastic cap stamped "K.L.K. #4687" found;

**THENCE** continuing along said East boundary line and said West boundary line and along a curve to the right with an arc length of 86.00 feet, a radius of 5735.66 feet, a chord bearing of South 05 degree 35 minutes 10 seconds East, a chord length of 86.00 feet to a 1-1/4" iron pipe found for the Southwest corner of said 15.061 acre tract and the Northwest corner of aforementioned Lot 5, Boris Park, Unit 1;

**THENCE** North 89 degrees 30 minutes 56 seconds East, a distance of 561.52 feet continuing along the South boundary line of said 15.061 acre tract and along the North boundary line of said Lot 5 to a PK nail found;

**THENCE** North 00 degrees 41 minutes 49 seconds West, a distance of 21.95 feet continuing along the South boundary line of said 15.061 acre tract to a 1/2" iron rod found with cap stamped "Thompson & Associates";

**THENCE** North 88 degrees 19 minutes 47 seconds East, a distance of 195.28 feet continuing along the South boundary line of said 15.061 acre tract to a 1/2" iron rod found with cap stamped "Thompson & Associates";

**THENCE** North 32 degrees 56 minutes 55 seconds East, a distance of 84.05 feet to a Type II TxDOT right of way monument found in the West right of way of Farm to Market Highway No. 2493, (Old Jacksonville Highway);

**THENCE** South 69 degrees 00 minutes 31 seconds East, a distance of 161.70 feet to a point for corner in the East right of way of said Farm to Market Highway No. 2493;

**THENCE** South 20 degrees 59 minutes 29 seconds West, a distance of 45.12 feet along the East right of way F. M. Highway No. 2493 to a 1/2" iron rod with plastic cap stamped "K.L.K. #4687" found;

**THENCE** South 25 degrees 53 minutes 45 seconds East, a distance of 39.02 feet continuing along said East right of way to a 1/2" iron rod with plastic cap stamped "K.L.K. #4687" found in the North right of way of West Cumberland Road;

**THENCE** South 69 degrees 55 minutes 42 seconds East, a distance of 153.30 feet along the North right of way of West Cumberland Road to a 1/2" iron rod with plastic cap stamped "K.L.K. #4687" found;

**THENCE** North 88 degrees 36 minutes 20 seconds East, a distance of 217.90 feet continuing along said North right of way of West Cumberland Road to a 3/4" iron rod found, also being in the existing Western City Limits of Tyler, Texas;

**THENCE** South 26 degrees 02 minutes 54 seconds East, a distance of 491.98 feet continuing along said Western City Limits of Tyler, Texas to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

**THENCE** South 87 degrees 09 minutes 24 seconds West, a distance of 351.09 feet 1/2" iron rod found;

**THENCE** South 87 degrees 07 minutes 27 seconds West, a distance of 226.88 feet to a 1/2" iron rod found;

**THENCE** South 87 degrees 16 minutes 44 seconds West, a distance of 224.53 to a 1/2" Iron rod with orange plastic cap stamped "Summit Surveying" found in the East right of way of aforementioned F. M. Highway No. 2493;

**THENCE** South 18 degrees 23 minutes 36 seconds West, a distance of 523.63 feet along the East right of way of said F. M. Highway No. 2493 to a point for corner;

**THENCE** South 15 degrees 35 minutes 15 seconds West, a distance of 118.79 feet continuing along the East right of said F. M. Highway No. 2493 to a point for corner;

**THENCE** South 88 degrees 30 minutes 47 seconds West, a distance of 584.38 feet across F. M. Highway No. 2493 right of way, along the South boundary line of aforementioned Lot 4-B, Boris Park, Unit One, First Amendment, and across aforementioned 29.84 acre State of Texas Parcel 16 to a point for corner in the West boundary line of same;

**THENCE** North 01 degree 53 minutes 31 seconds West, a distance of 150.14 feet along the West boundary line of said 29.84 acre Parcel 16 to a point for corner being the Southeast corner of aforementioned 65.264 acre tract;

**THENCE** South 86 degrees 54 minutes 05 seconds West, a distance of 338.02 feet along the South boundary line of said 65.264 acre tract to a 1/2" iron rod with plastic cap stamped "ELS Surveying" found;

**THENCE** South 88 degrees 38 minutes 04 seconds West, a distance of 2712.98 feet continuing along said South boundary line to an axle found;

**THENCE** South 88 degrees 37 minutes 32 seconds West, a distance of 163.14 feet continuing along said South boundary line to a 1/2" iron rod found;

**THENCE** South 88 degrees 44 minutes 40 seconds West, a distance of 459.91 feet continuing along said South boundary line to an axle found;

**THENCE** South 88 degrees 45 minutes 39 seconds West, a distance of 214.01 feet continuing along said South boundary line to the **place of beginning** containing 158.5 acres of land.

Bearing basis is the Texas State Plane Coordinate System, Grid North Central Zone, NAD 83 Feet, based on the 1993 adjustment of the NAD 83 System. The control monument is TJC1-Tyler, Leica Geosystems SmartNet of North America.

"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."

I, Kevin L. Kilgore, Registered Professional Land Surveyor No. 4687, Texas, do hereby certify that the above field note description was prepared from an actual on-the-ground survey made under my direction and supervision during the month of May, 2017.

**GIVEN UNDER MY HAND AND SEAL, This 22nd day of May, 2017.**



**Kevin L. Kilgore, R.P.L.S. 4687**



**ORDINANCE NO. O-2017-46**  
**EXHIBIT "C"**  
**SERVICE PLAN**

In accordance with Texas Local Code Section 43.056, the City of Tyler has prepared a Municipal Annexation Service Plan for the area being considered for annexation. **The document includes a program under which the municipality will provide full municipal services in the annexed area no later than 2 1/2 years after the effective date of the annexation.**

The document represents a consolidation of all departmental service plans submitted by each department responsible for providing municipal services to the area. Each departmental service plan detailed the overall impact that the proposed annexation will have on each individual department. As a consequence, the Comprehensive Municipal Annexation Service Plan outlines the process of implementing all major municipal services to the annexation area.

The properties included in the annexation are multiple lots located around the intersection of West Cumberland Road and Old Jacksonville Highway (see attached map). The area is contiguous to the existing city limits on its northern and eastern boundaries. The proposed annexation area is approximately 153 acres of land, and is primarily undeveloped but platted to create single-family residential development with the potential for commercial along West Cumberland Road and Old Jacksonville Highway. The Municipal Annexation Service Plan was prepared with these aforementioned land use in mind.

The City of Tyler, Texas, will provide the following services in the area beginning the same date as the effective date of the annexation:

1. Police protection;
2. Fire protection;
3. Solid waste collection;
4. Operation and maintenance of water and wastewater facilities in the annexed area that are not within the service area of another water or wastewater utility;
5. Operation and maintenance of roads and streets, including road and street lighting;
6. Operation and maintenance of public parks, playgrounds, and swimming pools; and
7. Operation and maintenance of any other publicly owned facility, building, or service.



## **MUNICIPAL SERVICES TO BE PROVIDED**

### **FIRE:**

The Fire Department will provide fire protection, rescue services, first responder emergency medical response, public service and inspection services to the newly annexed area at the same or similar level of service now being provided to other areas in the city of Tyler. Adequate fire suppression activities can be afforded to the annexed area within current budget appropriation. Fire prevention activities will be provided by the Fire Marshall's office as needed. An assessment of the current conditions and pressures of existing fire hydrants will be conducted after the effective date of the annexation.

### **POLICE:**

Currently, the area is under the jurisdiction of the Smith County Sheriff's Office. However, upon annexation, the City of Tyler Police Department will extend regular and routine patrols to the area. It is anticipated that the implementation of police patrol activities to this area can be effectively accommodated with no impact on the current budget.

### **BUILDING INSPECTION**

The Building Services Department will provide permitting and building code compliance review upon annexation. This includes issuing building, electrical, and plumbing permits for any new construction and remodeling, and enforcing all other applicable codes which regulate building construction within the City of Tyler. These services can be provided within current budget appropriation. Structures which are constructed or under construction will be grandfathered and subject to the City of Tyler's non-conforming regulations.

### **ENVIRONMENTAL:**

Code Enforcement will provide environmental services upon annexation including enforcement of codes pertaining to weed lots, abandoned vehicles and other environmental problems. These services can be provided within current budget appropriations.

### **PLANNING**

The Planning Department's responsibility for regulating development and land use through the administration of the City of Tyler's Zoning Ordinance will extend to this area on the effective date of the annexation. The property will also continue to be regulated under the requirements of the City of Tyler Subdivision Ordinance. These services can be provided within the department's current budget.

Staff is recommending that the lots be zoned "R-1B" Single-Family Residential District and "C-1" Light Commercial District at the time of annexation.

### **LIBRARY:**

Upon the effective date of annexation, free library use privileges will be available to anyone residing in this area. These privileges can be provided within the current budget appropriation.

Any library cards that were issued to non-Tyler residents should be returned. A new card will be issued and the old card number will be retired so that it will not be used by any other patrons.

If a resident has never had a library card before, it is necessary to bring a photo ID with current address.

### **ANIMAL CONTROL:**

Animal Services will provide animal control services upon annexation including enforcement of codes pertaining to stray animals, mosquito control and other animal related issues. These services can be provided within current budget appropriations.

### **STREET:**

West Cumberland Road is currently maintained by the City. Old Jacksonville Highway (FM 2493) is a State maintained thoroughfare and will remain as such. Oak Creek Boulevard and other streets located within the Oak Creek subdivision are under construction. The City will assume maintenance for these streets upon completion of construction and final acceptance in accordance with the City's adopted process.

### **STORM WATER MANAGEMENT:**

Any new development will be required to provide adequate storm water drainage systems, with the expense being borne by the developer, and will be inspected by the Development Services Department and the Engineering Department. The City will then maintain any public drainage systems properly installed and included in an approved, properly sized, and dedicated drainage easement.

### **STREET LIGHTING:**

The City of Tyler will coordinate any request for street lighting with ONCOR in accordance with standard policy.

### **TRAFFIC ENGINEERING:**

The Traffic Engineering Department will assume the maintenance of traffic control devices such as street name signs, stop signs, speed limit signs, and pavement markings at the time of annexation. All street name signs for annexed streets will be replaced with City signs. Other traffic control devices may be replaced according to urban standards.

### **WATER SERVICE:**

Tyler Water Utilities, through its water treatment plants, has the production capabilities to serve this area. Tyler Water Utilities will pay to extend utilities and/or install private water connections

for any lot in the annexed area which currently receives water service and is unable to retain that service due to the annexation. Any utility extensions and/or private service connections for development after annexation will follow the typical procedure utilized by Tyler Water Utilities.

**SANITARY SEWER SERVICE:**

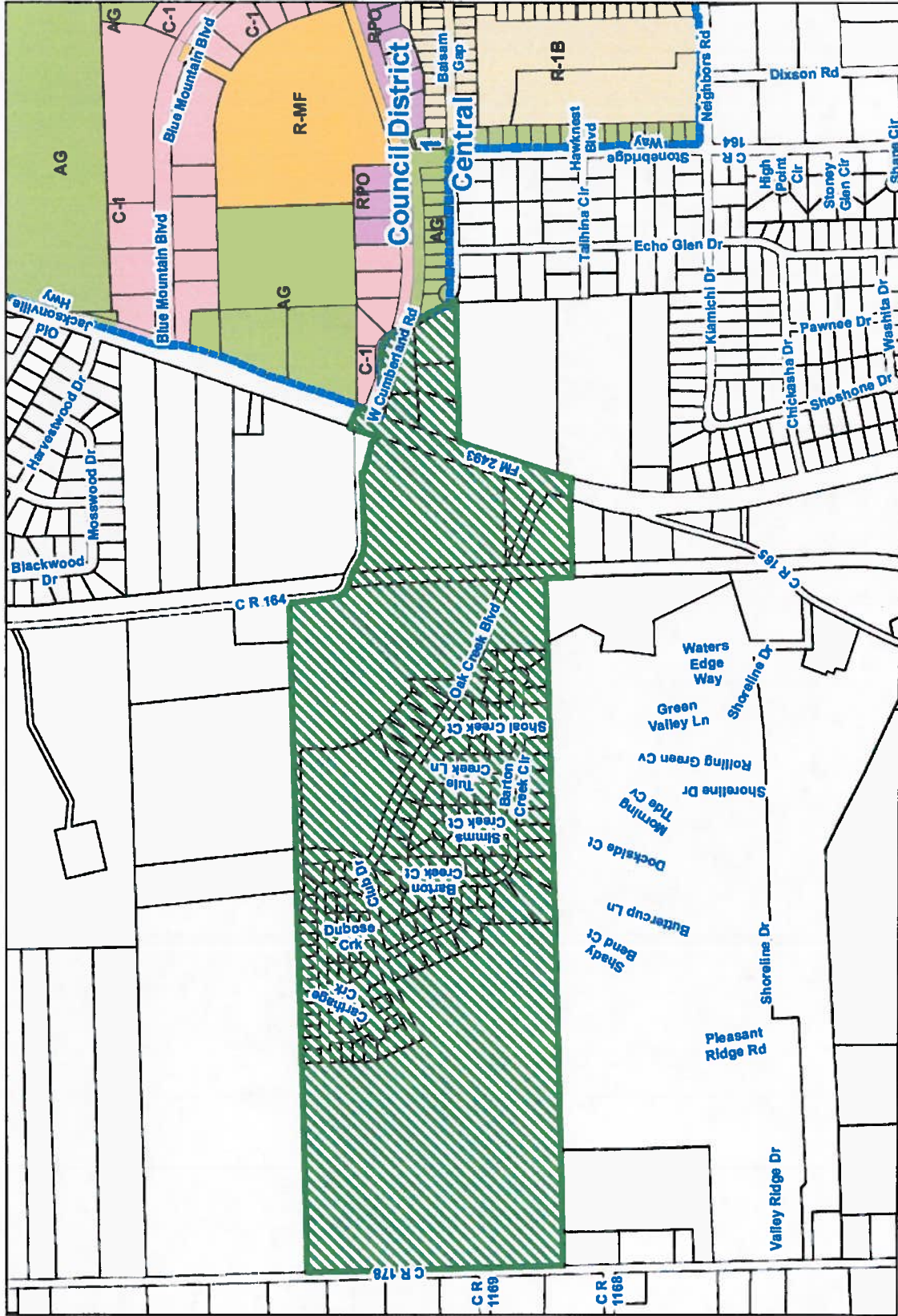
Tyler Water Utilities, through its wastewater treatment plant, has the processing capability to serve this area. Tyler Water Utilities will pay to extend utilities and/or install private sewer connections for any lot in the annexed area which currently receives sewer service and is unable to retain that service due to the annexation. Any utility extensions and/or private service connections for development after annexation will follow the typical procedure utilized by Tyler Water Utilities.

**SOLID WASTE SERVICES:**

The properties have the option of choosing their commercial carrier and the City of Tyler will be one option. The Solid Waste Landfill will also be available upon annexation.

**MISCELLANEOUS**

All other applicable municipal services will be provided to the area in accordance with the City of Tyler's established policies governing extension of municipal services to newly annexed areas.



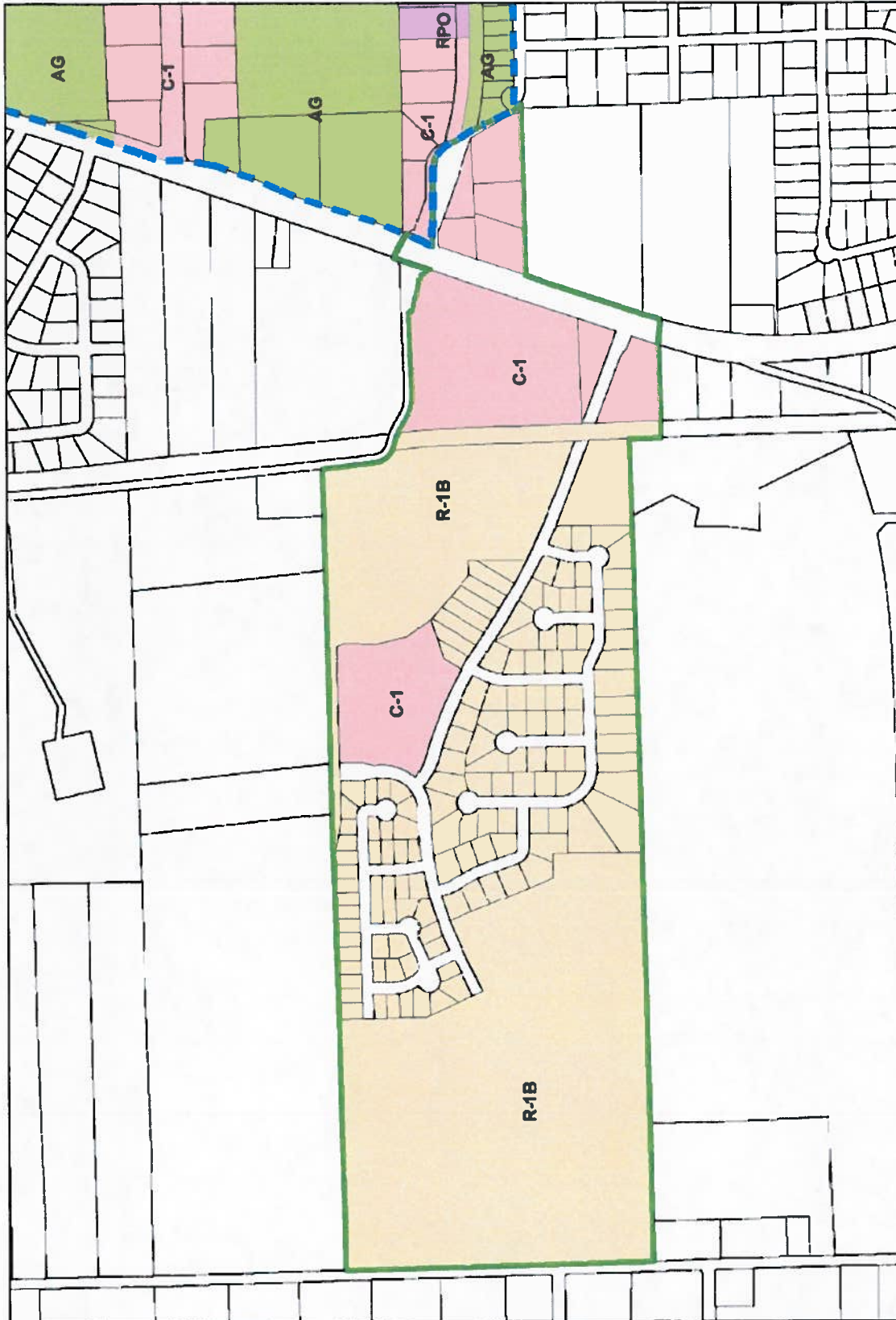
**ANNEXATION CASE**  
 Case #: A17-003  
 Original Zoning: R-1A and C-1

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700 0 700 Feet



**ORDINANCE NO. O-2017-46  
EXHIBIT "D"  
ZONING MAP**



**ANNEXATION CASE**  
Case #: A17-003  
Original Zoning: R-1B and C-1

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