

**ORDINANCE NO. O-2016-3**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, PROVIDING FOR THE ABANDONMENT OF AN UNIMPROVED RIGHT-OF-WAY KNOWN AS BREEZE DRIVE CONNECTING ROBERT E. LEE DRIVE AND CAMBRIDGE ROAD. THE NORTH SIDE OF THE RIGHT-OF-WAY IS ADJACENT TO LOT 9 AND LOT 10C OF NCB 1526. THE SOUTH SIDE IS ADJACENT TO LOTS 1, 10, 11, 12, AND 13 OF NCB 1526A; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the applicant is requesting the closure of an unimproved right-of-way known as Breeze Drive connecting Robert E. Lee Drive and Cambridge Road. The north side of the right-of-way is adjacent to Lot 9 and Lot 10C of NCB 1526. The south side is adjacent to Lots 1, 10, 11, 12, and 13 of NCB 1526A.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That the following thoroughfare closure is hereby approved as follows:

**I. APPLICATION C12-15-001**

That the public right-of-way described below, and the same is hereby abandoned, vacated and closed insofar as the right, or title of the public is concerned:

An unimproved right-of-way known as Breeze Drive connecting Robert E. Lee Drive and Cambridge Road. The north side of the right-of-way is adjacent to Lot 9 and Lot 10C of NCB 1526. The south side is adjacent to Lots 1, 10, 11, 12, and 13 of NCB 1526A.

**PART 2:** That closure and abandonment are contingent upon and will not become effective until and unless the applicant replats the property within six (6) months and completes all conditions of the agreement with Tyler Water Utilities including:

1. The Developer shall, at no cost to the City, transfer fee simple title to any interest in Lot 9A as shown on the Heritage South Subdivision Unit 14 Third Amendment, an Amending Replat of Heritage South Subdivision Unit 14, Part of Lot 10-C N.C.B. 1526 and Lots 1-13, N.C.B. 1526A attached hereto as Exhibit "A", which is incorporated herein;
2. The Developer shall, at no cost to the City, construct a twenty-five (25) foot wide access drive to the existing Well 14 location from Robert E. Lee Drive, designed so as to not adversely impact drainage along Robert E. Lee Drive;
3. The Developer shall, at no cost to the City, prepare a legal description and easement document increasing the existing 10-ft wide water line easement, contiguous to the north right-of-way line of Breeze Drive, to 25-ft in width;
4. The Developer shall, at no cost to the City, install a double 12-ft wide gate in the existing Well 14 security fencing where the drive constructed under Item 2 intersects the aforementioned security fencing, along with one (1) standard man gate;

5. The Developer shall, at no cost to the City, prepare necessary legal descriptions for any existing Tyler Water Utility easement requesting to be released.


**PART 3:** That said public right-of-way is not needed for public purposes and it is in the public interest of the City to abandon said described public right-of-way, other than the terms and conditions set out above.

**PART 4:** That the abandonment provided for herein shall extend only to the public right, title and overlay with ingress/egress, public utility easements and to the tracts of land described in this ordinance, and shall be construed only to that interest that the governing body of the City of Tyler may legally and lawfully abandon.

**PART 5:** 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 6:** That this ordinance shall be effective on and after its date of passage and approval by the City Council.

**PASSED AND APPROVED** this the 27<sup>th</sup> day of January A.D., 2016.

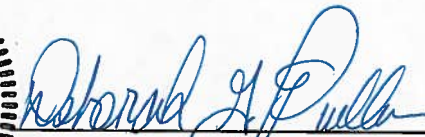
  
\_\_\_\_\_  
MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

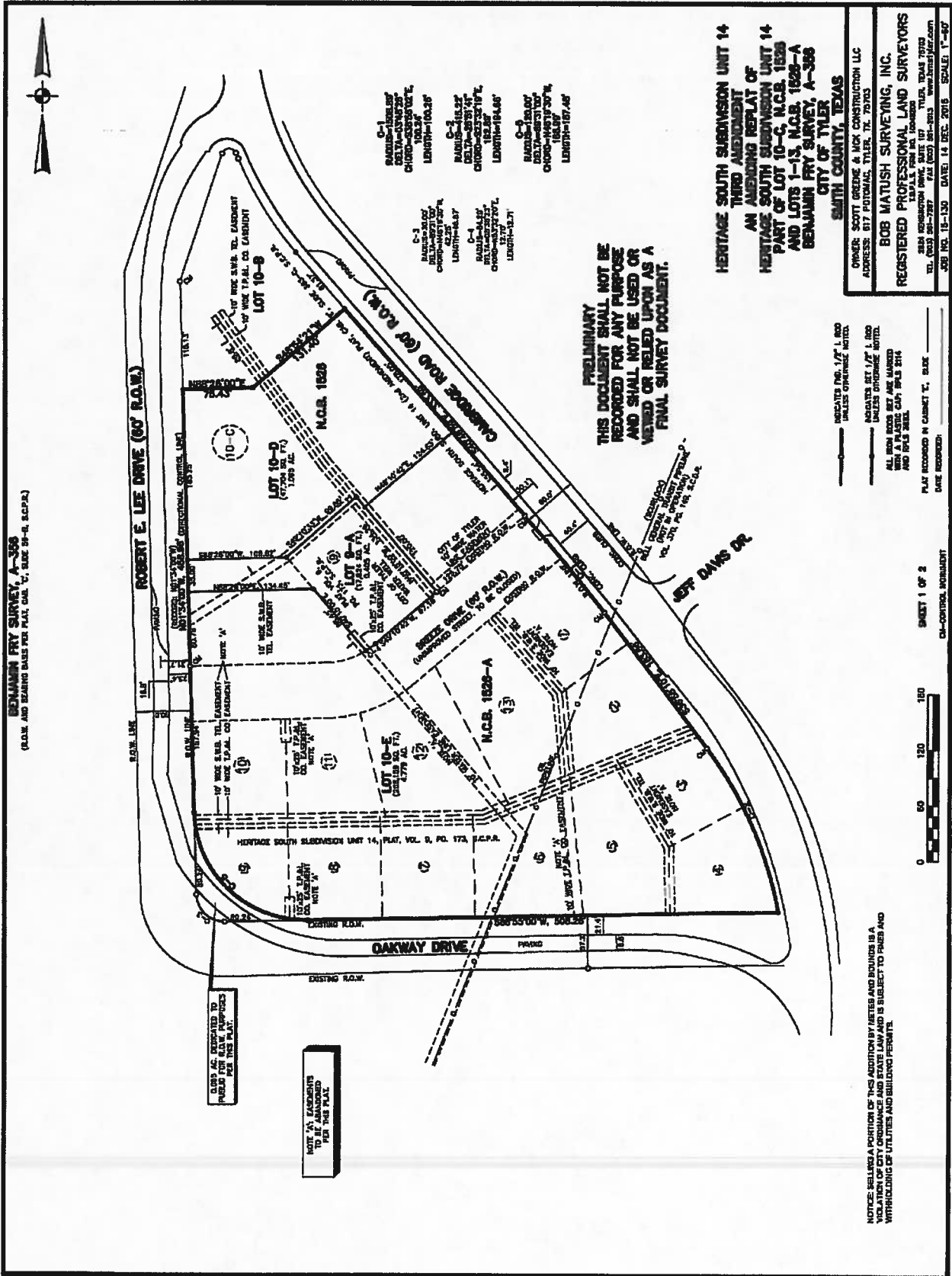
  
\_\_\_\_\_  
CASSANDRA BRAGER, CITY CLERK



APPROVED:

  
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DEBORAH G. PULLUM,  
CITY ATTORNEY

# ORDINANCE NO. O-2016-3 EXHIBIT "A" PLAT EXHIBIT



HERITAGE SOUTH SUBDIVISION UNIT 14  
 THIRD AMENDMENT  
 AN AMENDING REPLAT OF  
 HERITAGE SOUTH SUBDIVISION UNIT 14  
 PART OF LOT 10-C, N.C.B. 1928  
 AND LOTS 1-A3, N.C.B. 1928-A  
 BENJAMIN FRY SURVEY, A-366  
 CITY OF TYLER  
 SMITH COUNTY, TEXAS

OWNER: SCOTT GREENE & NCK CONSTRUCTION LLC  
 ADDRESS: 817 POTOMAC, TYLER, TX 75703  
 BOB MATUSH SURVEYING, INC.  
 REGISTERED PROFESSIONAL LAND SURVEYORS  
 2828 REDBURN DRIVE, SUITE 107, TYLER, TEXAS 75703  
 TEL: (936) 282-2297 FAX: (936) 282-3615 www.bobmatush.com  
 JOB NO. 15-130 DATE: 14 DEC. 2015 SCALE: 1"=50'

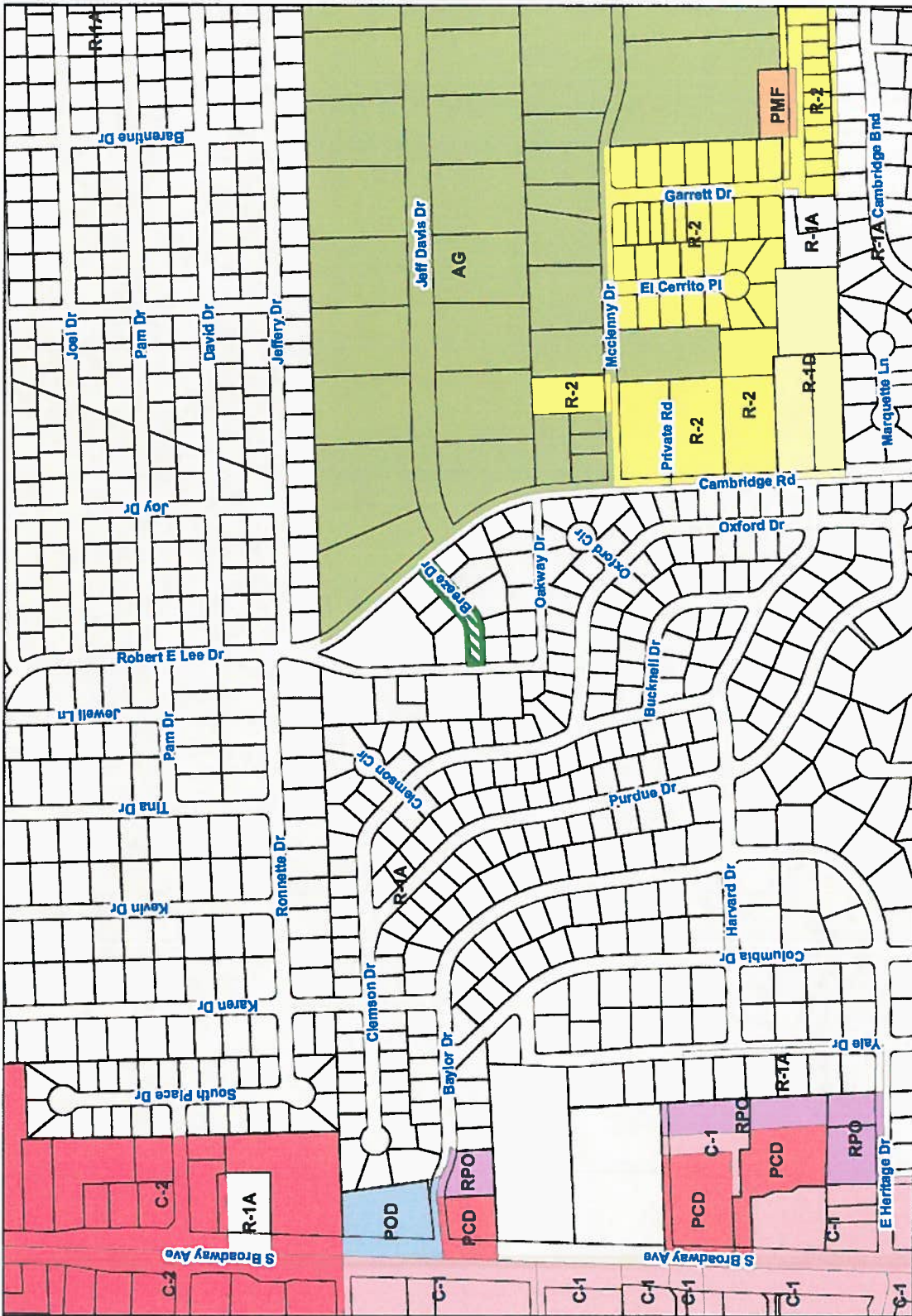
PRELIMINARY  
 THIS DOCUMENT SHALL NOT BE  
 RECORDED FOR ANY PURPOSE  
 AND SHALL NOT BE USED OR  
 VIEWED OR RELIED UPON AS A  
 FINAL SURVEY DOCUMENT.

INDICATES 1/4" I. ROD  
 UNLESS OTHERWISE NOTED.  
 INDICATES SET 1/2" I. ROD  
 UNLESS OTHERWISE NOTED.  
 ALL IRON RODS SET ARE MARKED  
 WITH A PLASTIC CAP, SPLS 2114  
 AND 1/4" I. ROD.  
 DATE RECORDED: \_\_\_\_\_  
 DATE RECORDED IN CABINET: \_\_\_\_\_

NOTES: BELIEVE A PORTION OF THE ADJACENT INTERESTS AND BOUNDARIES IS A  
 VIOLATION OF CITY ORDINANCE AND SHOULD BE SUBJECT TO PERMITS AND  
 WITHHOLDING OF UTILITIES AND BILLING PERMITS.

SHEET 1 OF 2  
 EA-CORRECTED INCIDENT

**ORDINANCE NO. O-2016-3  
EXHIBIT "B"  
LOCATION MAP**



 Subject Property

**ZONING CASE**  
Thoroughfare Closure #: C12-15-001  
Applicant: MCK Construction

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.





