

Introduction to Town Council and Referral to Planning Commission: 5/7/18
Consideration and Recommendation by Planning Commission: 7/30/18
Public Hearing: 12/3/18
Final Consideration by Town Council: 2/4/19

TOWN OF MOUNT AIRY, MARYLAND
ANNEXATION RESOLUTION NO. 2018-42

[FOR FINAL CONSIDERATION BY TOWN COUNCIL FEBRUARY 4, 2019]

A RESOLUTION TO ENLARGE THE CORPORATE BOUNDARIES OF THE TOWN OF MOUNT AIRY BY ANNEXATION OF 12.6439 ACRES OF LAND, MORE OR LESS, KNOWN AS “DORSEYTOWN” ALONG ELLIS ROAD AND NORTH MAIN STREET AND IN SO DOING TO REPEAL AND RE-ENACT WITH AMENDMENTS ARTICLE I, SECTION C-1, ENTITLED “INCORPORATION”, AND ARTICLE I, SECTION C1-2, ENTITLED “BOUNDARY DESCRIPTIONS”, OF THE CHARTER OF THE TOWN OF MOUNT AIRY

WHEREAS, pursuant to the authority of Section 3 (Home Rule) of Article XI-E (Municipal Corporations) of the Constitution of Maryland and of Sections 4-401, *et seq.* of the Local Government Article of the Annotated Code of Maryland, the Mayor and Council of the Town of Mount Airy (“the Town”) are vested with the authority to enlarge the boundaries of the Town; and

WHEREAS, the Town has received a Petition for Annexation (hereinafter “the Petition”), which is attached hereto as Resolution Exhibit 1, filed by Frall Developers, Inc., Betty Spencer, Teresa L. Spencer, William Sykora, Kellyann E. Sykora, Sheila C. Perkins, and William Allen Spencer (hereinafter “Petitioners”), seeking annexation of 12.6439 acres of land, more or less, known as “Dorseytown” along Ellis Road and North Main Street, situate adjacent to the existing corporate boundaries of the Town and as more particularly described in Exhibit “B” to the Petition and shown on Exhibit “A” to the Petition attached hereto and incorporated herein and (hereinafter “the Property”); and

WHEREAS, pursuant to Section 4-404 of the Local Government Article of the Maryland Code (“LG”), as modified by LG, Section 4-413 because there are fewer than 20 residents in the area to be annexed who are eligible to sign a petition for annexation and vote in an annexation referendum, the Petition reflects the consent for the proposed annexation from not less than twenty-five percent (25%) of the persons who own real property in the area to be annexed and who are, by virtue of LG, Section 4-413 eligible to vote in a referendum on this annexation, and from the owners of at least twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed; and

WHEREAS, the Mayor of the Town of Mount Airy (herein referred to as the “**Mayor**”), as the presiding officer of the Town of Mount Airy (herein referred to as the “**Town**”), caused the signatures on the Petition to be verified, and has ascertained that the Petition otherwise conforms to the requirements of the Local Government Article of the Maryland Annotated Code, Section 4-401 and the Code of the Town of Mount Airy, Chapter 44; and thereupon introduced this Resolution to approve the annexation of the Property into the Town and to classify the Property in

the Town's R-2 zoning classification as a condition to annexation, at a public meeting of the Mayor and Town Council of The Town of Mount Airy on May 7, 2018; and

WHEREAS, pursuant to publication of notice, in accordance with the Local Government Article of the Maryland Code, Section 4-406, a public hearing was conducted in the Town on December 3, 2018, to receive public comment and upon completion of the public hearing, the public record was closed to further public comment; and

WHEREAS, the Town Planning and Zoning Commission reviewed the proposed annexation and R-2 zoning of the Property on July 30, 2018, and has recommended to the Mayor and Town Council that this Resolution be denied; and

WHEREAS, the Town deems it in the best interest of its citizens and for the good government of the Town, to amend the Town Charter so as to annex the Property as hereinafter set forth; provided that the annexation of the Property shall be subject to and governed by the terms of an Annexation Agreement between the Petitioner and the Town, a copy of which is attached hereto and made a part hereof as Resolution Exhibit 2 (the "Annexation Agreement"); and

WHEREAS, the Mayor and Town Council of the Town of Mount Airy, upon consideration of all public comments and written testimony, have determined the following:

- A) The Petition and all procedures for consideration of the Petition by the Town conform to the applicable requirements of the Local Government Article, Sections 4-401, *et seq.* of the Maryland Annotated Code and all other applicable laws; and
- B) The Property is contiguous and adjoining to the existing corporate boundaries of the Town and is a logical extension of the corporate boundaries and is consistent with the systematic expansion of the Town limits as set forth in the Town's Master Plan; and
- C) Annexation of the Property will not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the Town, real property proposed to be within the Town, or any combination thereof (*i.e.*, enclave); and
- D) Annexation of the Property and classification in the Town's R-2 zoning district is considered to be in the public interest, convenience and welfare of the citizens of the Town.

IT IS, THEREFORE, RESOLVED, by the Mayor and Council of the Town of Mount Airy that the Property, which is more particularly described in a metes and bounds description attached hereto and incorporated herein by reference as Exhibit "B" to the Petition, which itself is attached to this Resolution as Resolution Exhibit 1, and further depicted on a Plat of Annexation

prepared by Van Mar Associates, Inc., Maryland Registered Professional Engineers and Surveyors, Surveyor No. 21266, dated December 13, 2017 attached hereto and incorporated herein by reference as Petition Exhibit "A", be added to the corporate boundaries of the Town; and

IT IS FURTHER RESOLVED that the boundaries of the Town as provided in the Charter of the Town of Mount Airy, as the same was enacted by the General Assembly of Maryland in Chapter 557, of the Laws of 1953, and thereafter from time to time amended, be amended to include the Property, and the Town Engineer shall so amend the description of the corporate limits to include all the Property more particularly described in Petition Exhibit "B" and shown and on the plat attached as Petition Exhibit "A".

BE IT FURTHER RESOLVED that except as otherwise provided below, persons residing in said area to be annexed shall become residents of the Town, generally subject to the provisions of the Charter, Code, Ordinances and other rules and regulations of the Town; and

BE IT FURTHER RESOLVED, that annexation of the Property shall be subject to the following terms and conditions:

1. Petitioners, their successors and assigns, shall pay the costs of any required advertising of this Resolution, as well as the outstanding balance, after application of the \$5,000 deposit paid to the Town upon filing of the Petition pursuant to Section 44-3 of the Town Code, of any charges made or incurred by the Town for review of the proposed annexation, services of the Town Attorneys and any consultants, plus 15% toward the Town's administrative costs and overhead. To the extent that the expenses of the Town for which deposit is made are upon final accounting less than \$5,000, Petitioners shall be refunded the balance of the deposit.
2. Municipal real estate taxes (hereinafter referred to as "Town taxes") shall be imposed on the Property at the full municipal real estate tax rate beginning with the next fiscal year after the effective date of the annexation pursuant to the Town Code, Section 101-7.
3. Subject to Term/Condition 4. below, the Town will allow extension of sanitary sewer, water and storm drain lines, driveways, streets, curbs, gutters, and other public improvements typically provided by the Town and/or Carroll County within the Property, to the extent allowed by law and unless provided otherwise by the Annexation Resolution

or by the Annexation Agreement, at the expense of the owner requesting same subject to conditions set forth in the Annexation Resolution and/or Annexation Agreement and applicable law.

4. Provided such extensions are requested under the terms outlined herein, and provided that the Town has allocated water and sewer capacity to the appropriate allocation category, the Town will allow owners of properties within the area to be annexed, subject to the provisions and pursuant to the procedures set forth in the Town Code, Chapter 109, Section 109-19.1, *et seq.*, at its expense, to extend sanitary sewer and water service to the Property and, in accordance with and subject to Town law and regulations governing the allocation of public water and sewer, will allocate water and sewer taps to the Property at the time the extensions are completed and inspected by the Town, and such taps are requested by the owners. Allocation of water and sewer service to the Property shall be in accordance with Town laws, rules and regulations, as may be amended, in effect at the time such are allocated. All water connection charges and sewer hookup fees, as those terms are defined under the Town Code, will be paid to the Town by Frall Developers, Inc. in accordance with the Annexation Agreement. All water engineering plans will be submitted to the Town Engineer for review and approval. All sewer engineering plans will be submitted to the Town Engineer for review and approval.

5. Subject to all appropriate laws and administrative requirements, the Property is hereby zoned by the adoption of this Resolution, and simultaneously with its annexation into the corporate boundaries of the Town, as R-2, Residential zoning classification. The Town hereby agrees that if the R-2, Residential zoning classification for the Property is determined by the Board of County Commissioners of Carroll County to permit a land use substantially different from the use for the Property as currently zoned by Carroll County the Town will cooperate with Petitioner in all regards and make all reasonable efforts to seek the express consent and approval by the Board of County Commissioners of Carroll County, Maryland, to such zoning classification for the Property.

BE IT FURTHER RESOLVED, that the Mayor has caused a copy of this Resolution to be published not fewer than two (2) times at not less than weekly intervals in a newspaper of general circulation in the Town, together with a public notice that shall specify the time and place at which a public hearing will be held by the Mayor and Council upon the Resolution, which hearing shall be set for not less that fifteen (15) days after the second (2nd) publication of the notices and to be held at the Town Hall; and

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that this annexation

shall become effective on the forty-sixth (46th) day after the passage of this Annexation Resolution unless a proper petition for referendum pursuant to the Local Government Article, Section 4-408, of the Annotated Code of Maryland, be presented to the Mayor within forty-five (45) days after the passage of this Annexation Resolution.

INTRODUCED at a regular meeting of the Mayor and Town Council of the Town of Mount Airy on May 7, 2018.

ADOPTED:

ATTEST:

Jason Poirier, Secretary

Peter R. Helt, President, Town Council

Approved this ____ day of _____, 2019.

Jason Poirier, Secretary

Patrick T. Rockinberg, Mayor

Reviewed and Approved as to legal sufficiency
This ____ day of _____, 2019.

Thomas V. McCarron, Town Attorney