

- ANNEXATION RESOLUTION NO. R2013-09 ANNX -

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND, ENLARGING THE CORPORATE BOUNDARIES OF THE CITY OF CUMBERLAND BY ANNEXING LAND CONTIGUOUS TO AND ADJOINING UPON THE CORPORATE BOUNDARIES OF THE CITY OF CUMBERLAND, WHICH LAND IS LOCATED ALONG THE NORTHERLY AND SOUTHERLY SIDES OF MARYLAND ROUTE 51 (INDUSTRIAL BOULEVARD) AT MESSICK ROAD IN ELECTION DISTRICT NO. 16, SAID LAND BEING MORE PARTICULARLY DESCRIBED IN THE METES AND BOUNDS DESCRIPTION ATTACHED HERETO AS EXHIBIT A, BEING A PART OF THE LANDS ACQUIRED BY THE MARYLAND STATE ROADS COMMISSION AS SHOWN ON PLAT NOS. 16727 AND 47876 AND ALSO ALL OF THE PROPERTY CONVEYED FROM L.C. NIXON DEVELOPMENT COMPANY, LLC TO FIRST PEOPLES COMMUNITY FEDERAL CREDIT UNION BY DEED DATED NOVEMBER 17, 2005 AND RECORDED AMONG THE LAND RECORDS OF ALLEGANY COUNTY, MARYLAND ON NOVEMBER 18, 2005 IN BOOK 1210, PAGE 482 (THE SAID FIRST PEOPLES COMMUNITY FEDERAL CREDIT UNION LANDS BEING IDENTIFIED AS ALLEGANY COUNTY TAX ACCOUNT NOS. 16-002372 AND 16-016489), THEREBY AMENDING THE CHARTER OF THE CITY OF CUMBERLAND AND PROVIDING FOR THE CONDITIONS AND CIRCUMSTANCES APPLICABLE TO THE PROPOSED CHANGES IN THE BOUNDARIES OF THE CITY OF CUMBERLAND AND THE AMENDMENT OF THE SAID CHARTER.

DEC - 4 2013

**WHEREAS**, pursuant to the authority of Article XI-E of the Constitution of the State of Maryland and Section 19 of Article 23A of the Annotated Code of Maryland, it is the intention of the Mayor and City Council of Cumberland to introduce and pass a resolution providing that the present corporate limits as described in the Charter of the City of Cumberland (1991 Edition) be enlarged to include therein property within Allegany County, Maryland, as more particularly described in the metes and bounds description attached hereto and made a part hereof as Exhibit A and as shown in the plat attached hereto and made a part hereof as Exhibit B, which is contiguous and adjoining to the existing corporate boundaries of the City of Cumberland;

**WHEREAS**, the annexation which is the subject of this Resolution does not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the City of Cumberland, real property proposed to be within the corporate limits of the City of Cumberland as a result of the proposed annexation, or any combination of such properties;

**WHEREAS**, in accordance with Md. Code Ann., Art. 23A § 19(b)(1), Mayor and City Council of Cumberland has obtained the consent for the proposed annexation from not less than 25 percent of the persons who reside in the area to be

annexed and who are registered as voters in county elections and from the owners of not less than 25 percent of the assessed valuation of the real property located in the area to be annexed;

**WHEREAS,** no persons reside within the area to be annexed;

**WHEREAS,** First Peoples Community Federal Credit Union, the sole owner of land subject to taxation in the area to be annexed, has consented to the proposed annexation under the terms of the Pre-Consent Agreement it entered into with Mayor and City Council of Cumberland dated September 7, 2012 and recorded among the Land Records of Allegany County, Maryland in Book 1905, Page 47, it being noted that the State of Maryland, as the owner of tax exempt property in the proposed annexation area, is excluded from consideration with respect to the requirement that Mayor and City Council of Cumberland obtain the consent of owners of not less than 25% of the assessed valuation of the real property located in the said proposed annexation area (see 75 Op. Att'y. Gen. 348, *City of Salisbury v. Banker's Life Company*, 21 Md. App. 396 (1974)); and

**WHEREAS,** the Mayor and City Council have determined to initiate this Resolution to enlarge and extend the limits of the City of Cumberland to include the area described more

fully in the Exhibits A and B attached hereto, and to make applicable to that area all laws which are now in force and effect or which may hereafter be enacted by the Mayor and City Council of Cumberland.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND:**

**SECTION 1.** That there is hereby annexed into the corporate boundaries of the Mayor and City Council of Cumberland, a municipal corporation of the State of Maryland, all that land contiguous and adjoining its current boundaries in Allegany County, Maryland along the northerly and southerly sides of Maryland Route 51 (Industrial Boulevard) at Messick Road in Election District No. 16, consisting of 6.42 acres, more or less, as more particularly and fully described by a survey of courses and distances attached hereto as Exhibit A and as shown on the plat attached hereto as Exhibit B.

**SECTION 2.** The City Administrator will cause a notice of the proposed enlargement of the corporate boundaries of the City of Cumberland to be published not less than two (2) times, at weekly intervals, in the *Cumberland Times News*, a newspaper of general circulation in the City of Cumberland, Maryland, said notice describing the proposed enlargement (i.e., the area to be annexed) and conditions

and circumstances applicable thereto and specifying the time, date and place at which a public hearing will be held on the proposed annexation. Said public hearing is to be held on the 19th day of November, 2013, at 6:15 o'clock p.m. in the City Hall, Cumberland, Maryland, said date being more than fifteen (15) days after the second publication of the notice in the aforementioned newspaper.

**SECTION 3.** Immediately upon the first publication of the public notice, the City Administrator shall cause a copy of the public notice to be provided to the Board of County Commissioners of Allegany County, Maryland, the Allegany County Planning Services Division and the Maryland Department of Planning. Each of these agencies and jurisdictions shall have the first right to be heard at the scheduled public hearing, after which the hearing shall be open to the general public.

**SECTION 4.** This Resolution shall be and become effective the forty-sixth (46th) day after its passage by the Mayor and City Council unless a petition for referendum in accordance with Subsection (f), (g) or (h) of Section 19 of Article 23A of the Annotated Code of Maryland is submitted to the City Administrator within forty-five (45) days following its passage.

**SECTION 5.** That from and after the effective date of this Resolution, all provisions of the Constitution of Maryland, all laws of the State of Maryland applicable to the City of Cumberland, and all duly adopted provisions of the Charter of the City of Cumberland, the Code of the City of Cumberland and the ordinances of the City of Cumberland shall be, and hereby are, extended and made applicable to such portion of Allegany County, Maryland as is, under the provisions of this Resolution, annexed to and made a part of the City of Cumberland, Maryland. Nothing herein or elsewhere in the Resolution shall affect the power of the Mayor and City Council of Cumberland to amend or to repeal any Charter provision, City Code provision or ordinance existing at the date of passage of this Resolution, or to enact and ordain any ordinance which, at the date of passage of this Resolution, or hereafter, it may be authorized to enact or ordain.

**SECTION 6.** The inhabitants of the land annexed to the City of Cumberland by this Resolution shall, in all respects and to all intents and purposes, be subject to the powers, jurisdiction and authority vested, or to be vested by law, in the Mayor and City Council of the City of Cumberland, so far as the same may be consistent with the provisions of this Resolution, and the land so annexed

shall, in all respects, be taken and considered as part of the municipal corporation of the City of Cumberland.

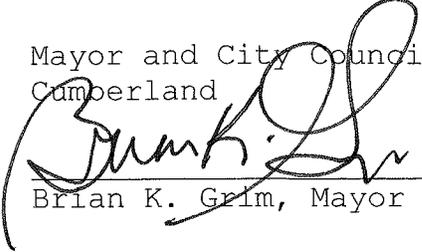
**SECTION 7.** Promptly, but no later than 10 days, after the effective date of this Resolution, the City Administrator of the City of Cumberland shall send a copy of this Resolution together with the new boundaries of the City of Cumberland to the City Clerk, the Clerk of the Circuit Court for Allegany County, Maryland and, as required by Section 9A of Article 23A of the Annotated Code of Maryland, to the Department of Legislative Services. Thereafter, the City Clerk shall hold this Resolution and make it available for inspection during all business hours.

**SECTION 8.** The land which is the subject of this Resolution shall be zoned B-C (Business-Commercial) upon its annexation.

**INTRODUCED** the 8th day of October, 2013.

**PASSED** under our hands and seals at the City Hall, Cumberland, Maryland, this **3rd** day of **December**, 2013, with the corporate seal of the City of Cumberland hereto attached, duly attested by the City Clerk.

Mayor and City Council of  
Cumberland



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Brian K. Grim, Mayor

ATTEST:



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Marjorie A. Eirich, City Clerk

**1st reading: 10/08/13**  
**2nd reading: 12/03/13**  
**3rd reading: 12/03/13**

**Public Hearing: 11/19/13**

**Effective Date: January 17, 2014**

**EXHIBIT A**

LEGAL DESCRIPTION - ANNEXATION

ALL that piece or parcel of land situated along northerly and southerly sides of MD 51 at Messick Road, Election District No. 16, Allegany County, Maryland, and being described as follows (Maryland Grid Meridian and horizontal measurements being used throughout) to wit:

BEGINNING for the same at a point located 119.64 feet along the 10<sup>th</sup> line of the Annexation Resolution of The Mayor and City Council of The City of Cumberland recorded February 5, 2009 in Deed Liber 1555, Folio 146 among the Land Records of Allegany County, Maryland, thence running with part of the 10<sup>th</sup>, the entire 9<sup>th</sup> and 8<sup>th</sup>, and part of the 7<sup>th</sup> lines thereof, reversed;

- 1) South 62 degrees 27 minutes 06 seconds East for a distance of 119.64 feet to a point at the intersection of the Northerly side of MD 51 and the Westerly side of Messick Road, thence;
- 2) North 29 degrees 32 minutes 46 seconds East for a distance of 132.86 feet to a 5/8" iron pin with cap found, thence;
- 3) South 68 degrees 56 minutes 06 seconds East for a distance of 20.00 feet to a PK nail found, thence;
- 4) North 10 degrees 34 minutes 11 seconds East for a distance of 95.24 feet to a point, thence leaving the lines of said Annexation Resolution;
- 5) South 67 degrees 35 minutes 30 seconds East for distance of 4.60 feet to a point on the westerly right of way line of Messick Road, thence leaving said right of way line;
- 6) South 67 degrees 35 minutes 30 seconds East for a distance of 29.02 feet to a PK nail found at SRC centerline station 17+00 (Messick Road) and station 10+00 (Access Road) as shown on SRC plat 47876, thence with said centerline (Access Road);
- 7) South 67 degrees 35 minutes 30 seconds East for a distance of 55.21 feet to a point at SRC station 10+55.21 (Access Road), thence leaving said centerline;

- 8) North 22 degrees 24 minutes 30 seconds East for a distance of 70.00 feet to a point on the Maryland SRC right of way for MD 51 at SRC centerline station 10+55.21 70.00L (Access Road), thence running with said right of way;
- 9) by a curve to the right with an arc length of 391.65 feet, a radius of 510.74 feet, and with a chord bearing South 45 degrees 37 minutes 25 seconds East for a distance of 382.12 feet to a point at SRC station 13+93.19 70.00L (Access Road), thence leaving said right of way;
- 10) South 66 degrees 20 minutes 39 seconds West a distance of 70.00 feet to SRC centerline station 13+93.19 (Access Road), thence leaving said centerline;
- 11) South 38 degrees 13 minutes 23 seconds West a distance of 295.10 feet to SRC centerline station 113+69.11 (MD 51), thence leaving said centerline;
- 12) South 41 degrees 21 minutes 32 seconds West a distance of 126.44 feet to a 5/8" iron pin with cap set on the southerly right of way line of MD 51 at SRC station 113+69.11 126.44R, and also the westerly right of way line of Bradley Street (a 40-foot right of way), thence leaving MD 51 and running with Bradley Street;
- 13) South 43 degrees 56 minutes 16 seconds West a distance of 174.92 feet to the intersection of Bradley Street with the northerly right of way line of Frazier Drive (a 35-foot right of way), thence with said drive;
- 14) North 47 degrees 48 minutes 18 seconds West a distance of 301.57 feet to a 5/8" iron pin with cap set at SRC station 110+07.17 267.37R (MD 51), as shown on SRC plat 53411, thence leaving Frazier Drive and running with the lines as shown on said plat;
- 15) North 05 degrees 05 minutes 02 seconds West a distance of 173.18 feet to a 5/8" iron pin with cap set on the southerly right of way line of MD 51 at SRC station 108+99.36 123.69R, thence leaving said right of way line;
- 16) North 27 degrees 15 minutes 51 seconds East a distance of 123.69 feet to MD 51 centerline station 108+99.36, thence leaving said centerline;

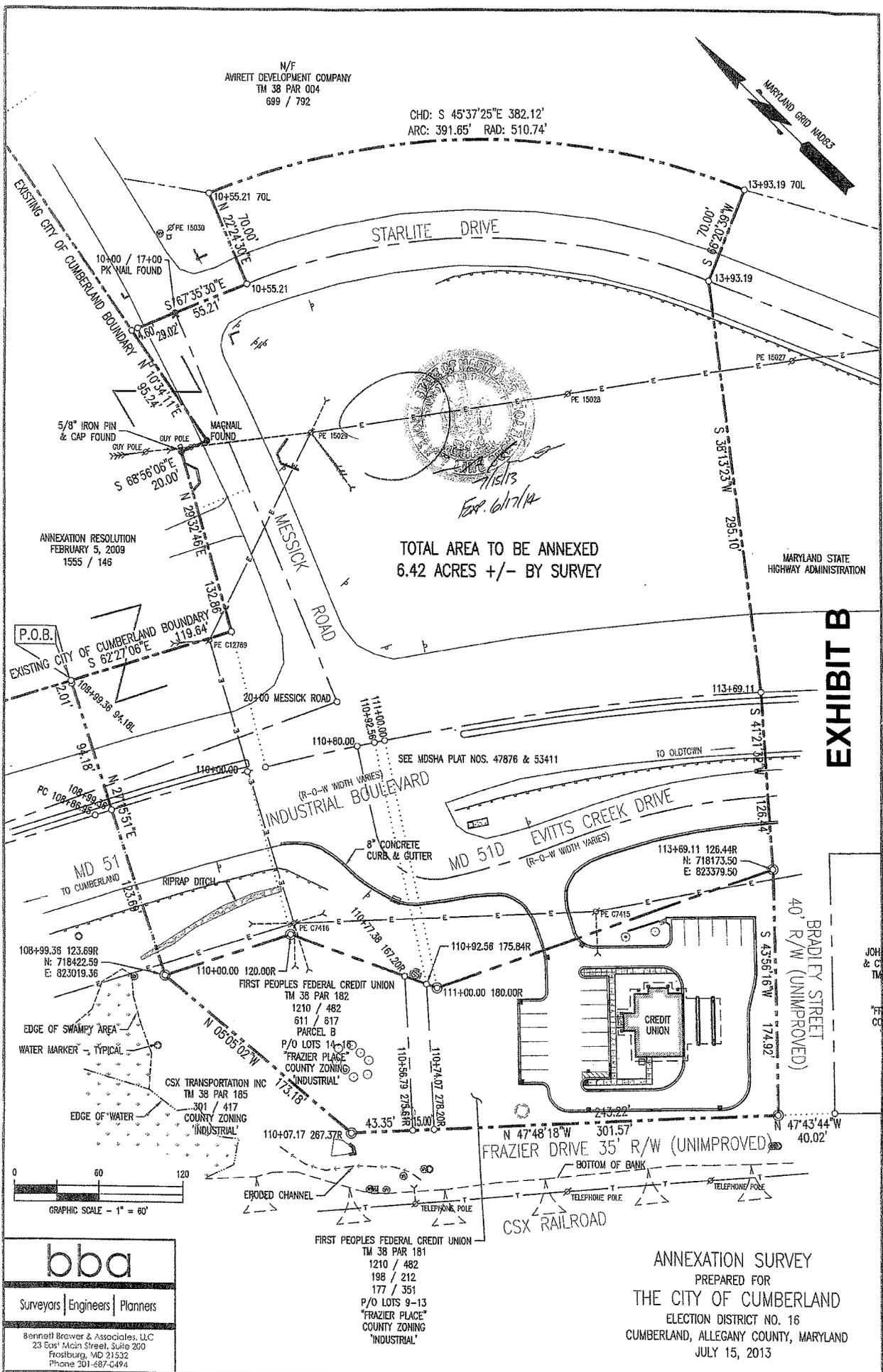
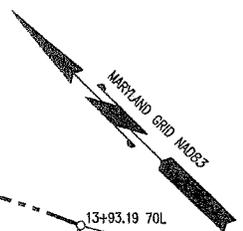
- 17) North 27 degrees 15 minutes 51 seconds East a distance of 94.18 feet to a point on the northerly right of way line of MD 51 at SRC station 108+99.36 94.18L, thence leaving said right of way line;
- 18) North 27 degrees 15 minutes 51 seconds East a distance of 2.01 feet to the point of beginning, containing 6.42 acres, more or less.

ALL OF THE ABOVE described parcel being a part of the same property acquired by the Maryland State Roads Commission as shown on plat nos. 16727 and 47876, and also all the property conveyed from L.C. Nixon Development Company, LLC to First Peoples Community Federal Credit Union by deed recorded November 18, 2005 in Liber 1210, Folio 482 among the Land Records of Allegany County, Maryland.

TOGETHER WITH AND SUBJECT TO any restrictions, reservations, covenants, right of ways, et cetera as of record, and as shown on the aforesaid plat.

N/F  
 AVIRETT DEVELOPMENT COMPANY  
 TM 38 PAR 004  
 699 / 792

CHD: S 45°37'25"E 382.12'  
 ARC: 391.65' RAD: 510.74'



TOTAL AREA TO BE ANNEXED  
 6.42 ACRES +/- BY SURVEY

ANNEXATION RESOLUTION  
 FEBRUARY 5, 2009  
 1555 / 146

MARYLAND STATE  
 HIGHWAY ADMINISTRATION

**EXHIBIT B**

P.O.B.

EXISTING CITY OF CUMBERLAND BOUNDARY

INDUSTRIAL BOULEVARD  
 (R-O-W WIDTH VARIES)

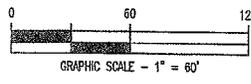
EVITT'S CREEK DRIVE  
 (R-O-W WIDTH VARIES)

MD 51  
 TO CUMBERLAND

108+99.36 123.69R  
 N: 718422.59  
 E: 823019.36

EDGE OF SWAMPY AREA  
 WATER MARKER - TYPICAL

EDGE OF WATER



**bba**  
 Surveyors | Engineers | Planners

Bennett Brower & Associates, LLC  
 23 East Main Street, Suite 200  
 Frostburg, MD 21532  
 Phone 301-687-5494

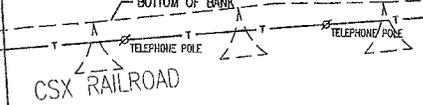
FIRST PEOPLES FEDERAL CREDIT UNION  
 TM 38 PAR 182  
 1210 / 482  
 611 / 617  
 PARCEL B  
 P/O LOTS 14-16  
 "FRAZIER PLACE"  
 COUNTY ZONING  
 "INDUSTRIAL"

CSX TRANSPORTATION INC  
 TM 38 PAR 185  
 301 / 417  
 COUNTY ZONING  
 "INDUSTRIAL"

110+07.17 287.37R  
 43.35'  
 115.00'

FIRST PEOPLES FEDERAL CREDIT UNION  
 TM 38 PAR 181  
 1210 / 482  
 198 / 212  
 177 / 351  
 P/O LOTS 9-13  
 "FRAZIER PLACE"  
 COUNTY ZONING  
 "INDUSTRIAL"

FRAZIER DRIVE 35' R/W (UNIMPROVED)



ANNEXATION SURVEY  
 PREPARED FOR  
 THE CITY OF CUMBERLAND  
 ELECTION DISTRICT NO. 16  
 CUMBERLAND, ALLEGANY COUNTY, MARYLAND  
 JULY 15, 2013

JOH  
 & C  
 TM

7' FT  
 CO