

Introduction to Town Council and Referral to Planning Commission: 6/6/22
Consideration and Recommendation by Planning Commission: 8/29/22
Public Hearing: 11/7/22
Final Consideration by Town Council and Adoption: 2/6/23

TOWN OF MOUNT AIRY, MARYLAND
ANNEXATION RESOLUTION NO. 2022-45

[AS ADOPTED ON 2/6/23]

A RESOLUTION TO ENLARGE THE CORPORATE BOUNDARIES OF THE TOWN OF MOUNT AIRY BY ANNEXATION OF 8.3360 ACRES OF LAND, MORE OR LESS, SITUATED ALONG THE NORTHERLY AND EASTERLY SIDES OF BUFFALO ROAD IN THE 13TH ELECTION DISTRICT OF CARROLL COUNTY, WHICH IS CURRENTLY UNDEVELOPED AND OWNED BY BUFFALO ROAD INVESTMENT, INC., 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 Council of the Town of Mount Airy (“the Town”) is vested with the authority to enlarge the boundaries of the Town; and

WHEREAS, Buffalo Road Investment, LLC is the owner, in fee simple, of 8.3360 acres of land, more or less, situated along the northerly and easterly side of Buffalo Road in the 13th Election District, Carroll County, Maryland, adjacent to the corporate limits of the Town, and which is more particularly described in Exhibit A to the Petition for Annexation and Zoning attached hereto as a part of Annexation Resolution Exhibit 1, attached hereto and made a part hereof, and as depicted in Exhibit B to said Petition attached hereto and made a part hereof (hereinafter, collectively “the Property”); and

WHEREAS, Petitioner has filed a Petition to Annex the Property into the Town, said Petition, and all exhibits thereto, being attached hereto as Resolution Exhibit 1; and

WHEREAS, the Property is contiguous with the Town limits and its annexation will not create an enclave; and

WHEREAS, Petitioner desires to have the Property annexed into the corporate limits of the Town for the purpose developing the Property; and

WHEREAS, the Town Council President and Mayor of the Town of Mount Airy, as the presiding officers of the Town, have through their designees, the Town Attorney and Town Staff, ascertained that the annexation of the Property would conform to the requirements of the Code of the Town of Mount Airy, Chapter 44, and the Local Government Article of the Maryland Annotated Code, Sections 4-401 and 4-403 in that the proposed annexation would not create an enclave, the Property is contiguous with the Town’s boundary line and in that this Resolution is

consented to by the owners of at least 25% of the assessed value of the Property and at least 25% of the residents on the Property who are registered voters; whereupon this Resolution to approve the annexation of the Property into the Town, and to classify the Property in the Town's R2 zoning classification as a condition to annexation, was introduced at a public meeting of the Mayor and Town Council of The Town of Mount Airy on June 6, 2022, at which time said Resolution was referred to the Town Planning Commission for review and recommendation pursuant to the Town Code, Section 44-4; and

WHEREAS, the Town Planning Commission reviewed the proposed annexation and proposed R2 zoning of the Property on August 29, 2022 and voted to recommend to the Town Council that this Resolution be approved by the Town Council; 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 November 7, 2022 to receive public comment and upon completion of the public hearing, the public record was closed to further public comment; 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 the Annexation Agreement attached hereto as Annexation Resolution Exhibit 2; and

WHEREAS, the Town Council of the Town of Mount Airy, upon consideration of all public comments and written testimony, has 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, the Town Code, Sections 44-1, *et seq.* and all other applicable laws; and
- B) The Property is contiguous and adjoining to the existing corporate boundaries of the Town, 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 Comprehensive 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.*, an enclave); and
- D) Annexation of the Property and classification in the Town's R2 District is considered to be in the public interest, convenience and welfare of the citizens of the Town.

IT IS, THEREFORE, RESOLVED, by the 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 Resolution Exhibit 1, Petition Exhibit “A” , and further depicted on a Plat of Annexation prepared by VanMar Associates, Inc. Surveyor No. 21512, dated February 16, 2022 attached hereto and incorporated herein by reference as Resolution Exhibit 1, Petition Exhibit “B”, upon the Effective Date of the annexation as set forth below, shall 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, shall, upon the Effective Date of the annexation as set forth below, 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 A and shown on the plat attached as Petition Exhibit B to Resolution Exhibit 1.

BE IT FURTHER RESOLVED that except as otherwise provided below in the Annexation Agreement attached hereto as Resolution Exhibit 2, or otherwise as set forth herein, the Property shall, upon the Effective Date of the annexation as set forth below, generally be 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, which shall be binding on Petitioner, as well as its assigns and/or successors-in-interest:

1. As a condition to annexation, Petitioner, its 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, Petitioner shall be refunded the balance of the deposit. Payment by Petitioner of any outstanding balance within thirty (30) days of receipt by Petitioner of final accounting is a condition of annexation. Failure to make payment within thirty (30) days, without the expressed written waiver and/or extension by Town Staff, shall cause annexation to be null and void.

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, and shall be subject to reassessment thereafter as to each improved lot in accordance with applicable provisions of the Maryland and Town Codes.
3. Extension of sanitary sewer, water and storm drain lines, streets, curbs, gutters, and other public improvements as may be applicable, subject to the terms set forth herein, including No. 4 below as respects water and sewer service, and by means of incorporation by reference of the Annexation Agreement below, subject to applicable provisions of the Town Code and other provisions of law, and subject to development plan review and Public Works Agreement as may be applicable and approved by the Town Planning Commission and/or the Town Council.
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 Petitioner, 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 the Town Code 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 taps to the Property shall be in accordance with Town laws, rules and regulations, as may be amended, in effect at the time such taps are allocated. All water taps fees will be paid to the Town by the owners requesting the same. All water engineering plans will be submitted to the Town Engineer for review and approval. All sewer tap fees will be paid to the Town by the owners requesting the same. All sewer engineering plans will be submitted to the Town Engineer for review and approval.
5. As a condition to annexation, the Board of County Commissioners of

Carroll County (hereafter “the County”) granting a zoning waiver pursuant to LG, Section 4-416(b) and providing consent to the development of the Property after annexation for the land uses and density permitted in the Town’s R2 Zoning District (hereafter “the Zoning Waiver”). If the County denies or fails to grant the Zoning Waiver, annexation of the Property shall be null and void.

6. Subject to all appropriate laws and administrative requirements, the Property, upon the Effective Date of the annexation as set forth below, shall be zoned as R-2 zoning classification.
7. All those terms and conditions set forth in the Annexation Agreement attached hereto as Resolution Exhibit 2 (as may be amended by the Town Council at its meeting on 2/6/23) (hereafter “the Annexation Agreement”), incorporated by reference and made a part hereof as though fully set forth herein.
8. As a condition to annexation, Petitioner shall execute the Annexation Agreement within thirty (30) days of the date of conditional approval of this Resolution, unless expressly waived or extended in writing upon the affirmative vote of a majority of the Town Council, or annexation shall be null and void.

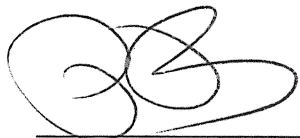
BE IT FURTHER RESOLVED, that the Mayor has caused public notice of this Resolution to be published not fewer than two (2) times at not less than weekly intervals in a newspaper of general circulation in the Town, together with a public notice that specified the time and place at which a public hearing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

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that this annexation shall become effective on the later of the 46th day after enactment of this annexation (*i.e.*, **March 19, 2023**) if no proper petition for referendum pursuant to the Local Government Article, Section 4-408 is timely presented to the Mayor within forty-five (45) days after the passage of this Annexation Resolution, or the approval of the annexation upon referendum if a proper petition for

referendum pursuant to the Local Government Article, Section 4-408 is timely presented to the Mayor (“the Effective Date”).

INTRODUCED at a regular meeting of the Mayor and Town Council of the Town of Mount Airy on June 6, 2022.

CONDITIONALLY APPROVED by a vote of 3 in favor and 2 against (with 0 abstentions) on this 6th day of February, 2023:

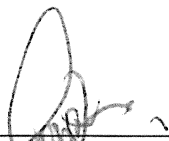


Pamela Reed, Secretary



Jason Poirier, President of the Council

Reviewed and approved as to legal sufficiency
This 6th day of February, 2023.



Thomas V. McCarron, Town Attorney

Resolution Exhibit 1

**Town of Mt. Airy
Annexation Resolution 2022-45
for 8.3360 acres of land, more or less, situated
along the northerly and easterly sides of Buffalo Road
owned by Buffalo Road Investment, LLC**

**Annexation Petition and
Petition Exhibit A (Metes and Bounds) and
Petition Exhibit B (Annexation Plat)**

MAYOR AND COUNCIL OF THE TOWN OF MOUNT AIRY MARYLAND
PETITION FOR ANNEXATION AND ZONING

Emmitt Full, President of Buffalo Road Investment, LLC (hereafter "Petitioner") pursuant to Local Government Article, Title 4, Subtitle 4 of the Annotated Code of Maryland and Chapter 112 (Zoning), Article IX (Amendments) of the Code of the Town of Mount Airy, Maryland, respectfully petitions the Mayor and Council of the Town of Mount Airy to annex the within described property owned by Petitioners into the corporate boundaries of the Town of Mount Airy and to zone the property annexed within the requested zoning districts of the Town of Mount Airy. In support of this petition, it states as follows:

1. Petitioners is the owner of a parcel of land comprising 8.3360 acres, more or less, located along the northeastern side of Buffalo Road in the Mount Airy Election District, Carroll County, Maryland (the "Property"), all as more particularly described in the legal description attached hereto and made a part hereof as Exhibit "A" and as depicted on the Plat of Annexation attached hereto and made a part hereof as Exhibit "B". The Property is the subject of this Petition for Annexation.

2. Petitioners certify that the Property is contiguous and adjoining to the existing corporate area of the Town of Mount Airy.

3. Petitioners certify that annexation of the Property will not create any unincorporated area bounded on all sides by real property presently within the corporate limits of the Town of Mount Airy.

4. Petitioners certify that the entire Property is solely owned by Petitioners and that Petitioners therefore own not less than 25% of the assessed valuation of real property located in the area to be annexed. Accordingly, the Petitioners as Owners have signed this Petition per Annotated Code of Maryland; Local Gov't Art.; §4-404(a). The Property is currently vacant and not used for residential purposes and therefore there are no registered voters residing in the area to be annexed as provided in Annotated Code of Maryland; Local Gov't Art.; §4-404(a).

5. The properties immediately east of the Property are within the corporate boundaries of the Town of Mount Airy, and annexation of the property will provide a uniform corporate boundary for the Town of Mount Airy.

6. The Property classified as "Low Density Residential" use in the 2012 Carroll County 2014 Master Plan. It is presently zoned "R-40,000" under the Carroll County Code of Ordinances. Petitioners request that the entire property to be annexed be classified to the "R-2" zoning district in the Town of Mount Airy as a condition of annexation (by a resolution of annexation by the Mayor and Council) as depicted on the Plat of Annexation attached hereto as Exhibit "B". The "R-2" district in the Town of Mount Airy will permit a land use in conformity with the zoning districts in the neighborhood. The "R-2" district in the Town of Mount Airy will permit a land use appropriate to the needs of the community. The Property is included in the Growth Area Boundary with a "Low Density Residential" Land Use as part of the Town of Mount

Airy 2013 Comprehensive Town Master Plan and within the Proposed Growth Area Boundary as shown on the Town of Mount Airy 2013 Comprehensive Town Master Plan. Accordingly, the resolution of annexation may establish the Town of Mount Airy "R-2" District of the Property pursuant to Local Gov't Art.; §4-416 of the Annotated Code of Maryland.

7. In support of this Petition, Petitioner submits the following exhibits:

- Exhibit "A" Metes and Bounds Description of the Property and Annexation Parcel;
- Exhibit "B" Plat of Annexation of the Property;
- Exhibit "C" List of names and addresses of persons with ownership interest in the Property; and
- Exhibit "D" List of names and addresses of persons residing on the Property who are registered to vote in Carroll County;

WHEREFORE, Petitioners respectfully request the Mayor and Council of the Town of Mount Airy.

A. To annex the area within the boundaries of the Mount Airy District of Carroll County, more particularly described by the description of Jeffrey W. Elkins of VANMAR Associates, Inc., dated February 11, 2021, and attached hereto as Exhibit "A".

B. To establish, pursuant to the Code of the Town of Mount Airy, relating to zoning maps and districts, on the zoning map of the Town of Mount Airy, the "R-2" zoning district for the entire property sought to be annexed by this Petition as those district boundaries are represented on the Plat of Annexation of the Property, attached hereto as Exhibit "B".

C. To file and support a request for approval with the County Commissioners of County to permit the "R-2" zoning district zoning classification requested herein to be implemented at the time of annexation as set forth in Annotated Code of Maryland; Local Gov't Art.; 54-416,

D. To grant an abatement of real property taxes imposed by the Town of Mount Airy after annexation so that the municipal tax rate applied to any given parcel now existing shall be free of the full Town tax rate, as the same may change from time to time, for a period of ten (10) years from the date of annexation or until such earlier time as public water and sewer connections (unaffected by moratoria) are available to the individual tax parcel in question.

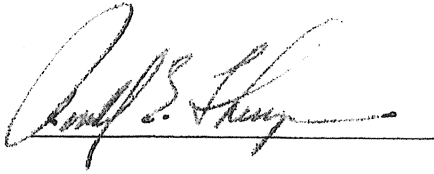
E. To initiate and support a proposed outline for the extension of services and public facilities into the hereinafter described area proposed for annexation as provided in Annotated Code of Maryland; Local Gov't Art.; §4-501, including any amendments to the Town of Mount Airy and/or Carroll County water and sewer master plans to bring the property to be annexed into

the 0-6 year water and sewer service area pursuant to Annotated Code of Maryland; Environment Article and other applicable statutory and regulatory requirements.

F. To grant such other and further relief as the nature of Petitioners' cause may require.

WITNESS:

THE BUFFALO ROAD INVESTMENT, LLC



A handwritten signature in cursive, appearing to read "Randy S. [unclear]", written over a horizontal line.

BY:

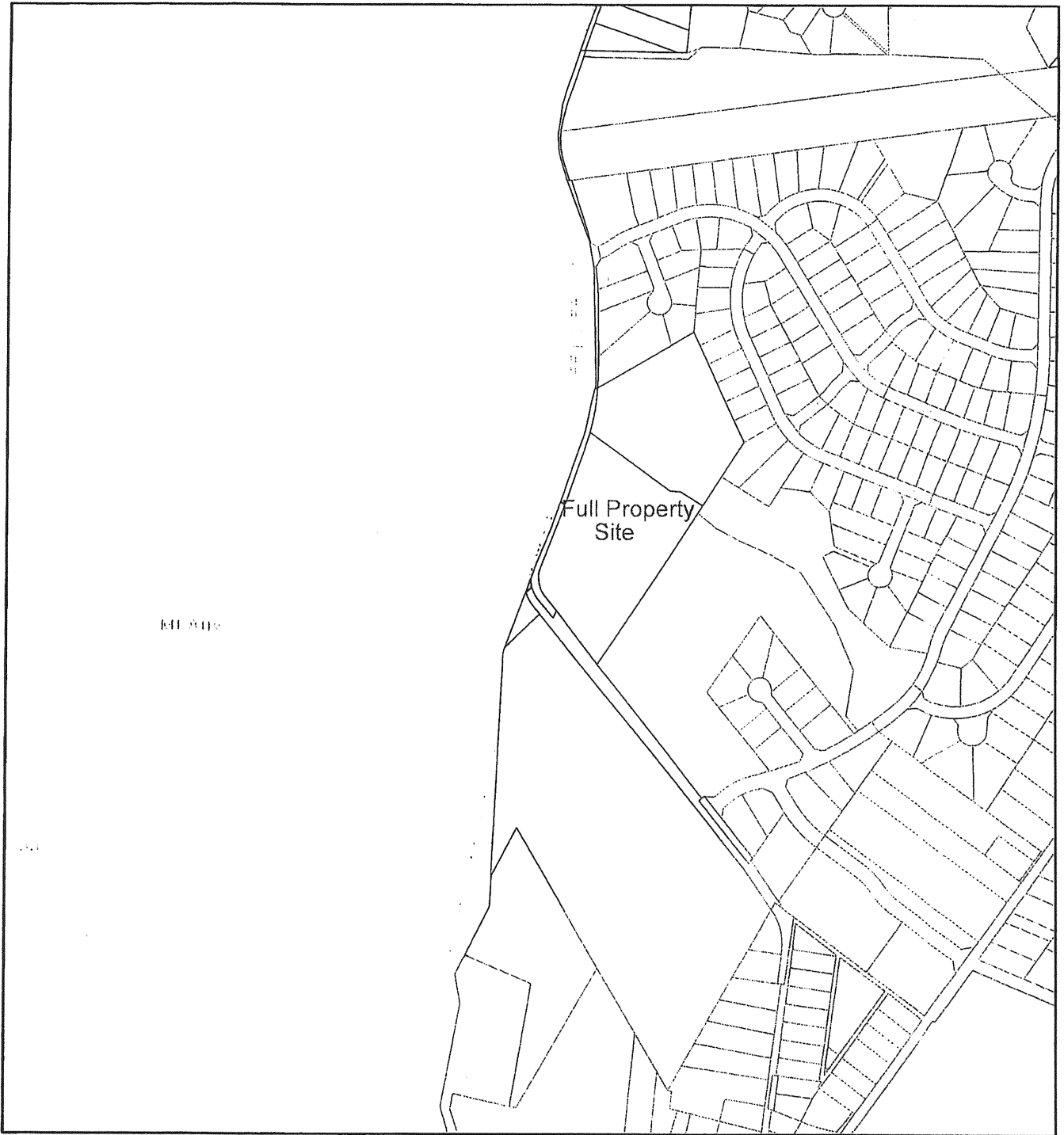


A handwritten signature in cursive, appearing to read "Emmett Full", written over a horizontal line.

Emmett Full, President

Date: March 4, 2022

Carroll County Zoning



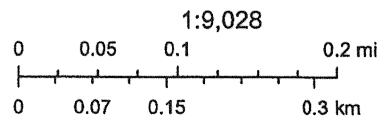
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Parcels

Zoning

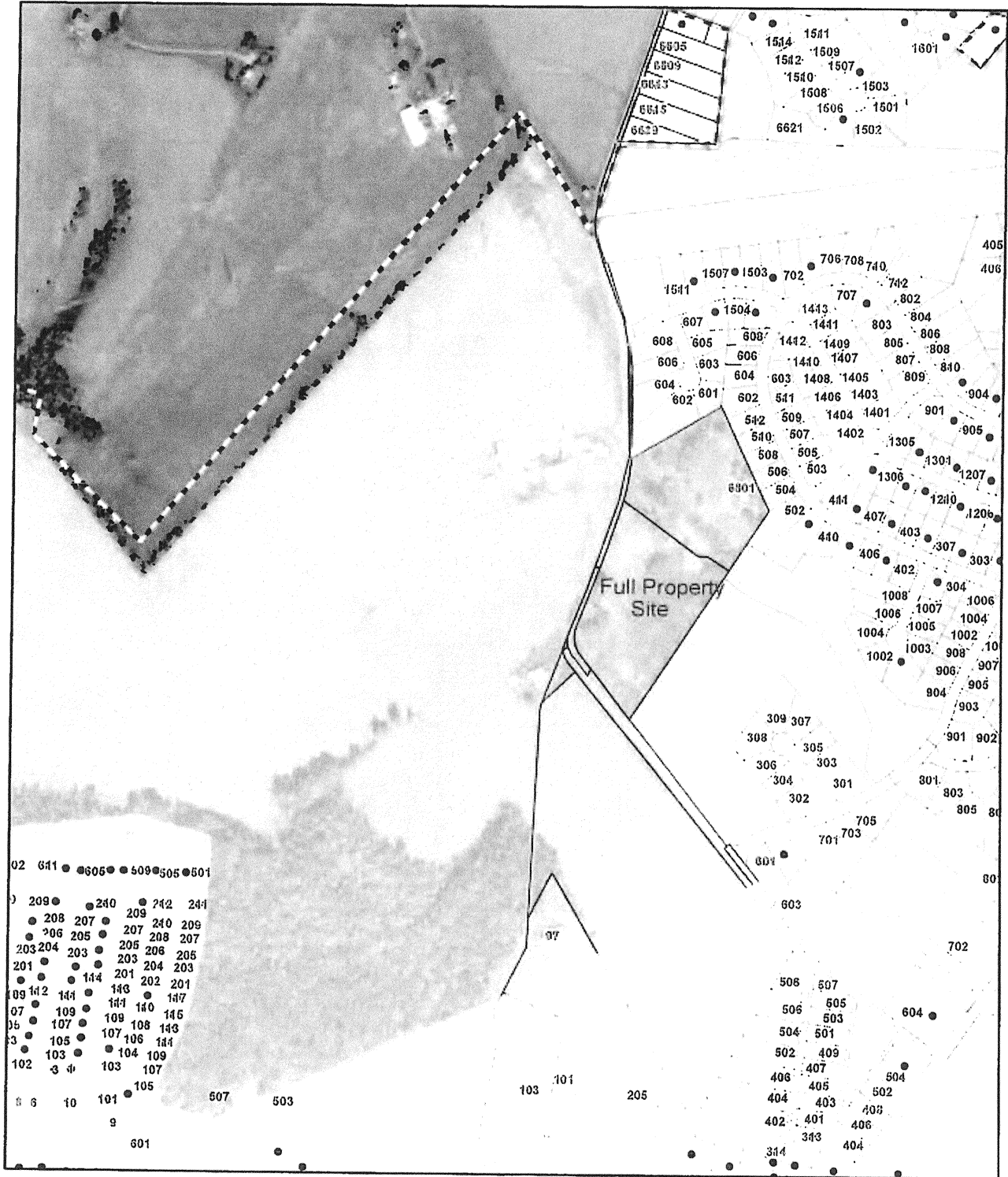
R-40,000

Full Property on Prospect Road



Carroll County, Frederick County, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., Intermap, USGS, METI/NASA, EPA, USDA

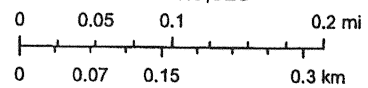
Carroll County Future Land Use



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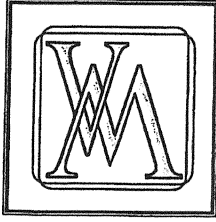
- | | | |
|------------------------------|----------------------------|------------|
| Priority Funding Area | Residential-Medium Density | Extractive |
| Growth Area | Employment Campus | |
| Rural Villages | Commercial-High | |
| Future Land Use Amended 2019 | Commercial-Medium | |
| Agriculture | Commercial-Low | |
| Resource Conservation | Industrial-Heavy | |
| Residential-Low Density | Industrial-Light | |



Full Property on Prospect Road

EXHIBIT "A"

See attached metes and bounds description of VANMAR Associates, Inc.



**VANMAR
ASSOCIATES, INC.**

Engineers · Surveyors · Planners

310 South Main Street, P.O. Box 328, Mount Airy, Maryland 21771

(301) 829-2890
(301) 695-0600

(301) 831-5015

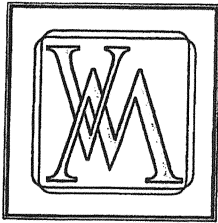
(410) 549-2751
Fax (301) 831-5603

**Exhibit "A"
Metes and Bounds Description**

**Annexation Parcel
Lands Conveyed to
Buffalo Road Investment, LLC
Liber D.B.S. 5480 at Folio 76
lying Northerly and Easterly of Buffalo Road**

Being a certain parcel of land, situated along the northerly and easterly sides of Buffalo Road, in the Mount Airy (13th) Election District, of Carroll County, Maryland; being all of that parcel of land, which by Deed dated March 7, 2008, and recorded among the Land Records of Carroll County, Maryland (all deed and plat references hereinafter refer to said Land Records), in Liber D.B.S. 5480, Folio 76, was granted and conveyed by Leslie B. Rigler, Jr., Timothy L. Rigler, and Utha Jean Rigler Rupert, to Buffalo Road Investment, LLC, a Maryland limited liability company; and now being more particularly described in the datum of the Maryland State Plane Coordinate System (NAD 1983/2007), and in accordance with a Boundary Survey performed by VanMar Associates, Inc., in October 2008, as follows:

Beginning for the same at a P.K. nail found at the beginning of the first, or North 38° 58' 34" West, 361.28-foot line, which by Deed dated March 7, 2008, and recorded in Liber D.B.S. 5480, Folio 76, was granted and conveyed by Leslie B. Rigler, Jr., Timothy L. Rigler, and Utha Jean Rigler Rupert, to Buffalo Road Investment, LLC, a Maryland limited liability company; said P.K. nail found of beginning also being located at the end of the nineteenth, or North 38° 58' 34" West, 694.13-foot line, which by Deed dated May 31, 2000, and recorded in Liber L.W.S. 2397, Folio 500, was granted and conveyed by Elizabeth H. Kraft, Personal Representative of the Estate of Leo W. Kraft (see Register of Wills for Frederick County, Estate No. 21994), and Elizabeth H. Kraft, to The Town of Mount Airy; said P.K. nail found of beginning also being located on or near the centerline of Buffalo Road; thence leaving said P.K. nail found of beginning, and leaving the aforesaid nineteenth line, of the aforementioned Deed recorded in Liber L.W.S. 2397, Folio 500; and running with and binding on the aforesaid first line, and also running with and binding on the second through sixth lines, respectively, of the aforementioned Deed recorded in Liber D.B.S. 5480, Folio 76; and also running with and binding on or near the centerline of



**VANMAR
ASSOCIATES, INC.**

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310 South Main Street, P.O. Box 328, Mount Airy, Maryland 21771

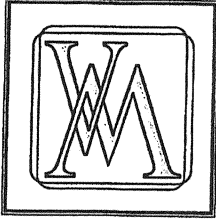
(301) 829-2890
(301) 695-0600

(301) 831-5015

(410) 549-2751
Fax (301) 831-5603

Buffalo Road; the following six (6) courses; in accordance with a Boundary Survey performed by VanMar Associates, Inc., in October 2008, and referring the courses herein to the datum of the Maryland State Plane Coordinate System (NAD 1983/2007),

- 1) **North 38° 57' 21" West, 361.28 feet to a point of curvature; thence,**
- 2) **by a tangent curve to the right, having a radius of 155.00 feet, a central angle of 60° 38' 27", and an arc length of 164.05 feet; said arc being subtended by a chord bearing and distance of North 08° 38' 07" West, 156.50 feet to a point of tangency; thence,**
- 3) **North 21° 41' 06" East, 220.57 feet to a point; thence,**
- 4) **North 20° 18' 28" East, 120.69 feet to a point; thence,**
- 5) **North 19° 22' 04" East, 181.82 feet to a point of curvature; and,**
- 6) **by a tangent curve to the left, having a radius of 950.00 feet, a central angle of 04° 32' 42", and an arc length of 75.36 feet; said arc being subtended by a chord bearing and distance of North 17° 05' 43" East, 75.34 feet to a P.K. nail previously set by VanMar Associates, Inc., at the beginning of the seventh, or South 53° 57' 15" East, 443.86-foot line, of the aforementioned Deed recorded in Liber D.B.S. 5480, Folio 76; said P.K. nail previously set also being located at the end of the seventh, or North 50° 31' West, 459.25-foot line, which by Deed dated September 27, 2019, and recorded in Liber H.D. 9431, Folio 106, was granted and conveyed by Rachel E. Harne, to Nicole Brooks and Bradford Brooks; thence leaving said P.K. nail previously set, and leaving the aforesaid centerline of Buffalo Road; and running with and binding on the aforesaid seventh line, and also running with and binding on the eighth and ninth lines, respectively, of the aforementioned Deed recorded in Liber D.B.S. 5480, Folio 76; and also running with and binding reversely on the aforesaid seventh line, and also running with and binding reversely on the sixth and fifth lines, respectively, of the aforementioned Deed recorded in Liber H.D. 9431, Folio 106; the following three (3) courses:**
- 7) **South 53° 56' 02" East, 443.86 feet to a railroad spike previously set by VanMar Associates, Inc., in concrete, at the base of a fence post; thence,**



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ASSOCIATES, INC.**

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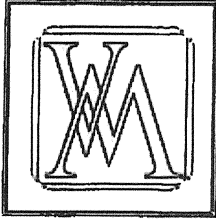
(301) 831-5015

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Fax (301) 831-5603

- 8) North 84° 18' 58" East, 39.00 feet to an iron rebar and cap previously set by VanMar Associates, Inc.; and,
- 9) South 56° 54' 02" East, 116.10 feet to an iron pipe found at a fence post, at the beginning of the tenth, or South 33° 36' 47" West, 812.54-foot line, of the aforementioned Deed recorded in Liber D.B.S. 5480, Folio 76; said iron pipe found also being located on the South 33° 36' 47" West, 180.66-foot line, of the Parcel 'A' – Open Space parcel, as shown and designated on a Plat of Record entitled, "Final Plat, Section Four, Summit Ridge", which Plat is recorded in Plat Book No. 45, Folio 35; said iron pipe found being distant North 33° 38' 00" East, 33.54 feet from the end thereof; thence leaving said iron pipe found, and leaving the aforesaid fifth line, of the aforementioned Deed recorded in Liber H.D. 9431, Folio 106; and running with and binding on the aforesaid tenth line, of the aforementioned Deed recorded in Liber D.B.S. 5480, Folio 76; and also running with and binding on a part of the aforesaid South 33° 36' 47" West, 180.66-foot line, of the aforesaid Parcel 'A' – Open Space parcel, of the aforementioned Plat recorded in Plat Book No. 45, Folio 35; and also running with and binding reversely on all of the first, or North 33° 36' 47" East, 779.00-foot line, of the aforementioned Deed recorded in Liber L.W.S. 2397, Folio 500; the following course:
 - 10) South 33° 38' 00" West, 812.54 feet to the point of beginning.

The area of land contained by the foregoing amounts to 363,114 square feet, or 8.3360 acres, more or less.

Subject to and together with rights of way, easements, encumbrances, and appurtenances of record.



VANMAR
ASSOCIATES, INC.

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Fax (301) 831-5603

The Undersigned either personally prepared this metes and bounds description, or was in responsible charge over its preparation and the work reflected in it. This metes and bounds description is in compliance with COMAR Sections 09.13.06.08 and 09.13.06.12 of the Minimum Standards of Practice as now adopted by the Maryland Board for Professional Land Surveyors. This metes and bounds description was prepared without the benefit of a Title Report, and is subject to all easements, Rights-of-Ways, and covenants of record.

Jeffery W. Elkins
Professional Land Surveyor
Maryland Reg. No. 21512
Expiration Date: August 4, 2023

FEBRUARY 17, 2022

Date:



EXHIBIT "B" Plat of Annexation of the Property

See attached reduced size sketch. Full size to be supplied separately.

EXHIBIT "C"

List of Names and Addresses of Persons With Ownership Interest in the Property.

Buffalo Road Investment, LLC
c/o Emmett Full
5720 Woodville Road
Mount Airy, Maryland 21771

EXHIBIT "D"

List of Names and Addresses of persons Residing on
The Property Who are Registered to vote in Carroll County

As indicated in averment no. 4 of the within Petition the property is currently vacant and there are no residents of the site. Therefore there are no persons residing on the property who are registered to vote in contemplation of Annotated Code of Maryland; Local Gov't Art.; § 4-404(a).

Resolution Exhibit 2

**Town of Mt. Airy
Annexation Resolution 2022-45
for 8.3360 acres of land, more or less, situated
along the northerly and easterly sides of Buffalo Road
owned by Buffalo Road Investment, LLC**

Annexation Agreement

ADOPTED ON 2/6/23

ANNEXATION AGREEMENT FOR ANNEXATION RESOLUTION 2022-45

**8.3360 ACRES OF LAND,
MORE OR LESS, SITUATED ALONG THE NORTHERLY
AND EASTERLY SIDES OF BUFFALO ROAD**

THIS ANNEXATION AGREEMENT (“Agreement”), dated this __ day of _____, 2023, by and between Buffalo Road Investment, LLC (hereinafter “Owner” or “Petitioner”), and the Town of Mount Airy, Maryland, a municipal corporation organized under the laws of the State of Maryland (hereinafter “the Town”). Owner/Petitioner and the Town shall collectively be referred to as “the Parties”.

WHEREAS, Owner/Petitioner holds legal title in fee simple to a parcel containing 8.3360 acres of land, more or less, situated along the northerly and easterly sides of Buffalo Road in the 13th Election District, Carroll County, Maryland adjacent to the existing corporate boundaries of the Town, and as more particularly described by metes and bounds in Exhibit A to a Petition for Annexation and Zoning to the Town of Mount Airy, Annexation Petition No. 2022-45 (hereinafter “the Petition”), and shown on the Annexation Plat titled “Plat of Annexation of the Lands Conveyed to Buffalo Road Investment, LLC” attached as Exhibit B to said Petition, and being more particularly described in a deed dated March 7, 2008 from Leslie B. Rigler, Jr., Timothy L. Rigler and Utha Jean Rigler Rupert to Owner/Petitioner, and recorded among the Land Records of Carroll County, Maryland at Liber 5480, Folio 76, *etc.* (hereinafter “the Property”); and

WHEREAS, Owner filed the Petition with the Town pursuant to the Maryland Code, Local Government Article (“LG”), Section 4-404 seeking annexation of the Property into the Town; and

WHEREAS, the Petition was determined to be in proper form and compliant with the Maryland Code by the attorney for the Town; and

WHEREAS, Annexation Resolution No. 2022-45 (hereinafter “the Resolution”) was introduced at the regular Town Council meeting held on June 6, 2022; and

WHEREAS, the Resolution was thereupon referred to the Town’s Planning Commission for review and recommendations; and

WHEREAS, the Town Planning Commission reviewed the proposed annexation and proposed zoning of the Property on August 29, 2022, and has recommended to the Mayor and Town Council that this Resolution be adopted; and

WHEREAS, pursuant to LG, Section 4-415, Town Staff prepared an Annexation Plan, which was adopted by the Town Council at its regular meeting on October 3, 2022, which was then, pursuant to LG, Section 4-415(f), provided to the Board of County Commissioners of Carroll County, the Carroll County Planning Department, and the Maryland Planning Department for review and comment; and

WHEREAS, after publication of public notice at least two (2) times at not less than weekly intervals in at least one newspaper of general circulation in the Town, and in the area to be annexed, in accordance with the LG, Section 4-406 and the Town Code, Section 44-4, and after a copy of such public notice was provided to the Maryland and Carroll County Planning Departments, a public hearing was conducted in the Town on November 7, 2022, which was no sooner than fifteen (15) days after the final required publication of the public notice, in order to receive public comment, at which representatives of the Maryland and Carroll County Planning Departments were given first opportunity to be heard, and upon completion of the public hearing, the public record was closed to further public comment; and

WHEREAS, the Town Council considered and conditionally approved the Resolution on December 5 2022, subject to certain conditions set forth in the Resolution, as amended, and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for the mutual promises contained herein and other good and valuable consideration, which the Parties deem to be good and sufficient, the parties do hereby agree as follows:

1.0 Definitions.

1.1 “Agreement” shall mean this Annexation Agreement.

1.2 “Effective Date” shall mean the date that the annexation shall become effective, which shall be the later of the following to occur: (1) the 46th day after enactment of this annexation (*i.e.*, **January 20, 2023**) if no proper petition for referendum pursuant to the Local Government Article, Section 4-408 is timely presented to the Mayor, or (2) the approval of the annexation upon referendum if a proper petition for referendum pursuant to the Local Government Article, Section 4-408 is timely presented to the Mayor.

1.3 “Maryland Code” shall mean the Code of the State of Maryland.

1.4 “Mayor” shall mean the Mayor of the Town of Mount Airy.

1.5 “Nonconforming use” for the purposes of this Agreement shall mean a use of a building or of land lawfully existing at the time of the effective date of this Agreement and of the annexation to which this Agreement relates but which does not conform with the use regulations as set forth in Chapter 112 of the Town Code for the zone in which the building or land is located.

1.6 “Owner” or “Petitioner” shall mean Buffalo Road Investment, LLC.

1.7 “Parties” shall mean the Owner/Petitioner and the Town.

1.8 “Petition” shall mean the petition for annexation of the Property resulting in Annexation Resolution No. 2022-45 introduced on June 6, 2022 before the Town Council of the Town of Mount Airy.

1.9 “Plat of Annexation” shall mean the plat attached as Exhibit B to the Petition showing the boundaries of the Property and, within those boundaries, the zoning classification under Chapter 112 of the Town Code for portions of the Property that will apply upon annexation.

1.10 “Property” shall mean a parcel containing 8.3360 acres of land, more or less, situated along the northerly and easterly side of Buffalo Road in the 13th Election District, Carroll County, Maryland adjacent to the existing corporate boundaries of the Town, and as more particularly described by metes and bounds in Exhibit A to the Petition, and shown on the Annexation Plat titled “Plat of Annexation of the Lands Conveyed to Buffalo Road Investment, LLC” attached as Exhibit B to said Petition, and being more particularly described in a deed dated March 7, 2008 from Leslie B. Rigler, Jr., Timothy L. Rigler and Utha Jean Rigler Rupert to Owner/Petitioner and recorded among the Land Records of Carroll County, Maryland at Liber 5480, Folio 76, *etc.*.

1.11 “Resolution” shall mean Annexation Resolution No. 2022-45 introduced on June 6, 2022 before the Town Council of the Town of Mount Airy, and shall include any and all amendments thereafter made and approved and adopted by the Town Council on December 5, 2022.

1.12 “Town” shall mean the Town of Mount Airy, a municipal corporation organized under the laws of the State of Maryland.

1.13 “Town Code” shall mean the Code of the Town of Mount Airy.

1.14 “Town Council” shall mean the Town Council of the Town of Mount Airy.

1.15 “Town Taxes” shall mean the Town’s municipal real estate taxes.

1.16 “Zoning Classifications” shall mean the zoning classification under Chapter 112 of the Town Code for the Property that will apply upon annexation and which are shown in the Plat of Annexation attached to the Petition as Exhibit B.

1.17 “Zoning Waiver” shall mean the Board of County Commissioners of Carroll County granting a zoning waiver pursuant to LG, Section 4-416(b) and providing consent to the development of the Property after annexation for the land uses and density permitted in the Town’s R2 Zoning District

2.0 Recitals.

2.1 The recitals set forth above are incorporated herein and made a part hereof as though fully set forth.

3.0 Conditions and Effective Date.

3.1 This Agreement is expressly conditioned upon the passage and approval of the Resolution and this Agreement by the Town Council, expiration of all referendum periods pursuant to LG, Section 4-408, or approval of the Resolution and the terms of this Agreement by referendum.

3.2 Annexation, and thus this Agreement, is conditioned as follows:

3.2.1. As a condition to annexation, Petitioner, its successors and assigns, shall pay the costs of any required advertising of the 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, Petitioner shall be refunded the balance of the deposit. Payment by Petitioner of any outstanding balance within thirty (30) days of receipt by Petitioner of final accounting is a condition of annexation. Failure to make payment within thirty (30) days, with the expressed written waiver and/or extension by Town Staff, shall cause annexation to be null and void.

3.2.2. The Board of County Commissioners of Carroll County granting a zoning waiver pursuant to LG, Section 4-416(b) and providing consent to the development of the Property after annexation for the land uses and density permitted in the Town's R-2 Zoning District ("the Zoning Waiver"). If the County Commissioners deny or fail to grant the Zoning Waiver, annexation of the Property shall be null and void.

3.2.5. As a condition to annexation, Petitioner shall execute the Annexation Agreement within thirty (30) days of the date of conditional approval of this Resolution, unless expressly waived or extended in writing upon the affirmative vote of a majority of the Town Council, or annexation shall be null and void.

3.3 This Agreement shall become null and void *ab initio*, even if executed by one or more of the Parties, if for any reason the Resolution does not become effective and/or the Resolution or any part of this Agreement is stricken, voided or held in any manner invalid by a court of competent jurisdiction, or if one or more of the conditions to the Resolution and this

Annexation Agreement are not timely fulfilled absent a written waiver of such condition by the Town upon the vote of a majority of the Town Council.

3.4 Annexation shall not become effective until the later of the following shall occur: (1) the 46th day after enactment of this annexation if no proper petition for referendum pursuant to the Local Government Article, Section 4-408 is timely presented to the Mayor, or (2) the approval of the annexation upon referendum if a proper petition for referendum pursuant to the Local Government Article, Section 4-408 is timely presented to the Mayor (“Effective Date”).

3.6 This Agreement shall be recorded among the Land Records of Carroll County, Maryland at Owner’s sole cost, and at no cost or expense to the Town.

3.7 Any condition to annexation not timely met, unless waived in writing by the Town, shall cause the adoption of this Resolution and the Annexation to become null and void, unless waived and/or extended in writing upon the affirmative vote of a majority of the Town Council. Time shall be of the essence.

4.0 Zoning and Town Code Compliance.

4.1 The Property, simultaneously with the Effective Date of its annexation into the corporate boundaries of the Town, shall be zoned as R-2.

4.2 All current and future uses of the Property shall upon the Effective Date of the annexation be governed, regulated and limited by the provisions of the Town Code applicable to the Town’s R-2 Zoning District, except as set forth below:

4.2.1 Nonconforming uses shall be allowed to continue but shall not be allowed to expand, except in accordance with the Town Code, and shall further be subject to the provisions of the Town Code relating to discontinuance and substitution of nonconforming uses as set forth in the Town Code.

4.2.2 Lots of record which exist and are developed or improved as of the effective date of this Agreement and the annexation to which it relates which do not fulfill the Town's regulations for the minimum lot area and/or width for the zone in which they are located shall be legal lots of record pursuant to the Town Code, except that any future subdivision, re-subdivision, development or improvements to the Property, shall be required to comply with all applicable provisions of the Town Code, including but not limited to lot dimensions, setbacks, lot sizes, road frontages, *etc.*

5.0 Development.

5.1 All future subdivision, re-subdivision, or development of the Property or any portion thereof shall be subject to all applicable subdivision regulations, design standards, rules, regulations, and ordinances of the Town, and any other applicable laws of the State of Maryland in force from time to time. The development of parcels and the construction of public improvements in the area to be annexed by Owner shall be subject to development plans submitted to and approved by the Town Planning Commission in accordance the Town Code, and the construction of public improvements shall be subject to Public Works Agreements entered into with the Town and approved by the Town Council.

5.2 Development of the Property after Annexation shall be a cluster design pursuant to Section 98-23 of the Town Code, not to exceed nine (9) lots.

5.3 Development of the Property shall be subject to and meet all requirements of the Town's Adequate Public Facilities Ordinance ("APFO"), set forth in Chapter 25 of the Town Code, Sections 25-4, *et seq.*

5.4 Development of the Property shall include, at the sole cost and expense of Petitioner, the design and construction of such reasonable pedestrian or bicycle access(es) to

Summit Ridge Park as part of the Buffalo Road Improvements connecting to the sidewalk along Summit Ridge Park.

6.0 Municipal Taxation.

6.1 Pursuant to the Town Code, Section 101-7, the Property shall be subject to 100% of the municipal tax, as set forth in the Town Code, commencing on the next fiscal year after the Effective Date of the annexation, and shall be subject to reassessment thereafter as to each improved lot in accordance with applicable provisions of the Maryland and Town Codes.

7.0 Police and Fire Service.

7.1 Upon the effective date of the Annexation Resolution, the Property will receive police service coverage from the Town of Mount Airy Police Department and fire service coverage in the same manner as other properties in the Town.

8.0 Streets and Roads; Sidewalks, Curbs and Gutters.

8.1 Any and all road improvements pursuant to any future development of the Property shall adhere to Town road construction standards in terms of thickness, curb, gutter and sidewalk, unless otherwise agreed to in the development plan review process. All such road improvements and respective rights of way, when completed, shall be conveyed in fee to the Town by Owner, upon final inspection and acceptance by the Town and/or other governing authorities.

8.2 Street improvements to the portion of Buffalo Road running along the Property shall be designed and constructed to meet the Town collector street design requirements along the Property frontage consisting of, but not limited to, adjusting road alignment to a minimum 300 foot radius, providing a 20-ft wide westerly bound travel lane with shoulder, curb and gutter, grass strip, and minimum 5-ft wide concrete sidewalk per Town standards at the sole cost of the

Petitioner, and pursuant to a Public Works Agreement to be entered into by Petitioner and the Town, and Petitioner shall put up adequate security pursuant to such agreement for road improvements as set forth in the development plans once approved. Said roadway improvements, including sidewalk, curb and gutter, shall be dedicated by deed to the Town.

8.3 At the Petitioner's sole cost, provided sufficient public right-of-way is provided by the Town at the time of the beginning of construction of the public improvements described below, Petitioner shall design, construct and continue the street improvements set forth in 8.2, connecting same to the existing street pavement, sidewalk, curb and gutter constructed as a part of the Summit Ridge development (hereafter "Offsite Sidewalk Improvements"). Such Offsite Sidewalk Improvements shall be designed and constructed in accordance with applicable Town standards, and shall be compatible in terms of width, thickness and design with the existing Summit Ridge sidewalk improvements to which connection shall be made.

9.0 Trash, Garbage and Recycling Service.

9.1 Upon improvement of the Property, and issuance of the first Zoning and Use and Occupancy Certificates, the Town will provide trash, yard waste and recycling services as it provides for properties within the limits of the Town to the extent required by the Town Code. The Owner of the improved lots or parcels comprising the Property shall participate in the Town's recycling program and shall pay the Town for trash, yard waste and recycling services, including recycling containers or bins, at the same cost charged to residents of the Town, and/or as amended from time to time in the future.

10.0 Water and Sewer Service.

10.1 Provided such extensions are requested, and provided that the Town has allocated water and sewer capacity to the appropriate allocation category, the Town will allow Petitioner,

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 Owner. Allocation of water and sewer taps to the Property shall be in accordance with the Town Code, rules and regulations, as may be amended, in effect at the time such taps are allocated. All water taps fees will be paid to the Town by the Owner requesting the same. All water engineering plans will be submitted to the Town Engineer for review and approval. All sewer tap fees will be paid to the Town by the Owner requesting the same. All sewer engineering plans will be submitted to the Town Engineer for review and approval.

10.2 Owner understands and agrees that Developer shall be responsible for any and all impact fees, fees in lieu of, hook-up fees, connection fees, or other fees and costs as currently required by the Town's Ordinances, Rules and Regulations.

10.3 Owner and the Town acknowledge that the Water and Sewer Master Plan maps may need to be amended to add the Property or a portion thereof to the immediate service area.

10.4 Owner shall be responsible for the design and construction of all water and sewer infrastructure to support development of the Property, subject to review and approval by the Town, including with respect to force mains, trunk lines and distribution lines. In addition, in order to mitigate anticipated impact of the development on the Town's water and sewer system, the Town reserves the right to require offsite improvements to the Town's water and/or sewer system to increase the capacities of those systems, as a term of a PWA to be entered into between the Developer and the Town, and approved by the Town Council.

11.0 General Miscellaneous Provisions.

11.1 This Agreement may be signed in counterparts.

11.2 This Agreement will be construed and governed in its performance by the laws of the State of Maryland.

11.3 This Agreement and the Resolution represent the entire agreement between the parties and there is absolutely no agreement on the part of any of them to do any act or thing other than is herein expressly stated and/or set forth in the Resolution and/or any of its attachments or exhibits, and to which the parties herein have clearly agreed.

11.4 This Agreement may not be modified except either in a written agreement signed by the parties or their successors in interest or by means of an amendment to the Town Code. Waiver of conditions to annexation may only be waived by the Town in writing. Time shall be of the essence.

11.5 In the event of a dispute between the parties arising out of this Agreement, and prior to the filing of any lawsuit, the parties agree to submit to non-binding mediation before a mediator to be agreed upon by the Parties, or if unable to agree, assigned by the American Arbitration Association.

11.6 In any lawsuit arising out of this Agreement, the Parties hereby agree to waive a jury trial and the exclusive jurisdiction for litigation of any dispute between the parties regarding this Agreement shall be the Circuit Court for Carroll County, Maryland.

11.7 The provisions of this Agreement shall be covenants and/or restrictions on the lots or parcels of land making up the Property which shall run with the land in perpetuity and shall be binding upon all record Owner or other persons holding any right, title or interest in the Property, or any lots or parcels thereof upon subdivision, as well as any and all of their heirs, assigns,

personal representatives, administrators, executors, guardians, legatees, grantees and successors-in-interest and shall run with each of their respective lots or parcels.

[Signatures begin on next page]

IN WITNESS WHEREOF, the parties hereby affix their signs and seals.

WITNESS:

[Handwritten Signature]

BUFFALO ROAD INVESTMENT, LLC

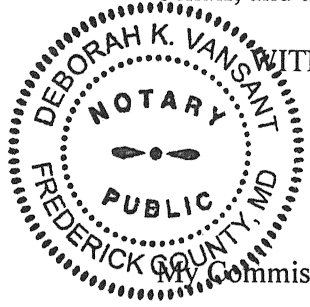
By: Douglas J Full (SEAL)
for Emmett Full, President

2-22-23
Date

STATE OF MARYLAND
COUNTY OF CARROLL

I HEREBY CERTIFY, that on this 22nd day of February, 2023, before me, the undersigned Notary Public of said State, personally appeared and known to me (or satisfactorily proven) to be Emmett Full, who represented himself to be the President of Buffalo Road Investment, LLC, and did on behalf of said entity execute the foregoing instrument on its behalf, and acknowledged that he executed the same for the purposes herein contained.

WITNESS my hand and Notarial Seal.

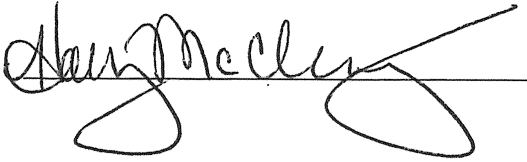



[Handwritten Signature]
Notary Public

My Commission Expires: 2/21/2027

WITNESS:

TOWN OF MOUNT AIRY




By:  (SEAL)
Larry Hushour, Mayor

Date March 24, 2023

STATE OF MARYLAND
COUNTY OF CARROLL

I HEREBY CERTIFY, that on this 24th day of March, 2023, before me, the undersigned Notary Public of said State, personally appeared Larry Hushour, known to me (or satisfactorily proven) to be the Mayor of the Town of Mount Airy named in the foregoing instrument, and acknowledge that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires: 1/25/2026

DAVID W. WARRINGTON
Notary Public, State of Maryland
Commission Expires, 1/25/2026