

THE TOWN OF NEW MARKET

RESOLUTION NO. 2014-01

(FOOD LION ANNEXATION)

TO ENLARGE THE CORPORATE BOUNDARIES
OF THE TOWN OF NEW MARKET AND
TO AMEND ARTICLE II OF THE CHARTER OF THE TOWN
TO INCLUDE THE AREA ANNEXED AND
TO ESTABLISH THE ZONING CLASSIFICATION APPLICABLE
TO THE ANNEXED PROPERTY

WHEREAS, The Town of New Market (the "Town") has received a petition (the "Petition") requesting annexation of the property described by courses and distances as set forth in Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Mayor of the Town has verified the signatures on the Petition, and has verified that the Petition meets the requirements of §4-404(a) of the Local Government Article of the Annotated Code of Maryland; and

WHEREAS, notice of the proposed annexation has been published and provided in accordance with §4-406 of the Local Government Article; and

WHEREAS, a public hearing on the proposed annexation has been conducted by the Town; and

WHEREAS, the Town has received the express consent of the Board of County Commissioners of Frederick County with respect to the proposed zoning classification of the Property;

NOW, THEREFORE, BE IT RESOLVED that the Property be and is annexed into the Town; and be it further

RESOLVED that the residents in the area annexed and their property shall be added to the municipality, and shall be generally subject to the provisions of the Charter of the Town; and be it further

RESOLVED that Article II of the Charter of the Town be and is hereby amended by adding thereto the land described in Exhibit A of this Resolution; and be it further

RESOLVED AND ORDAINED that the Property be and is zoned Mixed Commercial (MC) under the Land Development Ordinance of the Town, subject to conditions and limitations on the use of the Property and the density of development established in the Annexation Agreement by and between the Town and New Market Food Lion Center, LLC, East Side Acres, LLC, and East Street Plaza, LLC of even date herewith; and be it further

RESOLVED that the Property shall not be subject to *ad valorem* municipal taxation from the effective date of annexation through June 30, 2014, and with respect to Lot 2R, until the expiration or earlier termination of the current term of the grocery store lease applicable thereto, the expansion of the grocery store, or December 31, 2017, whichever shall first occur; and be it further

RESOLVED that this Resolution shall be effective forty-five (45 days) following the date of enactment.

ATTEST:

THE TOWN OF NEW MARKET

Town Clerk

Winslow F. Burhans, III, Mayor

Rita Mueller, Council Member

Lawrence Romanell, Council Member

Dennis Kimble, Council Member

Shannon Rossman, Council Member

Michael Davies, Council Member

INTRODUCED:

ENACTED:

EFFECTIVE:

ANNEXATION PETITION

New Market Food Lion Center, LLC, East Side Acres, LLC, and East Street Plaza, LLC ("Petitioners") petition the Town to annex the following real property, comprising 10.2223 acres, more or less, into The Town of New Market, a municipal corporation (the "Town"), to annex 10.2223 acres of land, more or less, (hereinafter referred to as the "Property"):

(a) the property owned by NEW MARKET FOOD LION CENTER, LLC described as Lot 2R on the plat of subdivision entitled "Correction Plat, Lots 2R, 3-5 & Outlot, Turnpike Farm" recorded among the Plat Records of Frederick County, Maryland in Plat Book 70 Page 164, containing 4.7456 acres, more or less (hereinafter "Lot 2R");

(b) the property owned by NEW MARKET FOOD LION CENTER, LLC described as Outlot on the plat of subdivision entitled "Correction Plat, Lots 2R, 3-5 & Outlot, Turnpike Farm" recorded among the Plat Records of Frederick County, Maryland in Plat Book 70 Page 164, containing 0.7215 acres, more or less (hereinafter "Outlot");

(c) the property owned by EAST SIDE ACRES, LLC described as Lot 3 on the plat of subdivision entitled "Correction Plat, Lots 2R, 3-5 & Outlot, Turnpike Farm" recorded among the Plat Records of Frederick County, Maryland in Plat Book 70 Page 164, containing .6616 acres, more or less (hereinafter "Lot 3");

(d) the property owned by EAST STREET PLAZA LLC described as Lot 4 on the plat of subdivision entitled "Correction Plat, Lots 2R, 3-5 & Outlot, Turnpike Farm" recorded among the Plat Records of Frederick County, Maryland in Plat Book 70 Page 164, containing 1.4097 acres, more or less (hereinafter "Lot 4");

(e) the property owned by EAST STREET PLAZA LLC described as Lot 5 on the plat of subdivision entitled "Addition Plat, Addition of Seawright Corporation to Lot 5, Turnpike Farm" recorded among the Plat Records of Frederick County, Maryland in Plat Book 71 Page 39 (incorrectly indexed as "Plat Book 70 Page 39") containing 2.2273 acres, more or less (hereinafter "Lot 5"); and

(f) a part the property owned by EAST STREET PLAZA LLC and dedicated to public use as "Morning Gate Lane (Variable Width R/W dedication to public use)" on the plat of subdivision entitled "Combined Preliminary/Final Plat And Resubdivision Plat, Section I, Lot 2 Into Lots 2R, 3-5 & Outlot, Turnpike Farm" recorded among the Plat Records of Frederick County, Maryland in Plat Book 62 Page 118, the part thereof to be annexed containing 0.4566 acres, more or less (which public street is currently maintained by Frederick County, Maryland)(hereinafter the "Road Bed")

The Property is more particularly described in EXHIBIT A.

1. Ownership. The Petitioners are the owners of the Property.
2. Registered Voters. There are no registered voters residing on the Property.

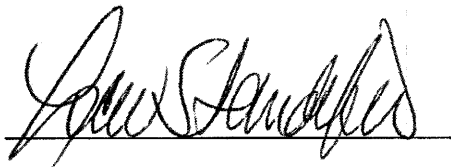
3. Zoning. The Petitioners request that, upon annexation, the Property be zoned Mixed Commercial (MC) under the Land Development Ordinance of the Town, subject to conditions and limitations on the use of the Property and the density of development established in an annexation agreement.

4. Taxation. This Petition is submitted subject to the condition that the Town shall not impose municipal *ad valorem* real estate tax upon the Property prior to July 1, 2014, and with respect to Lot 2R, until the expiration or earlier termination of the current term of the grocery store lease applicable thereto, the expansion of the grocery store, or December 31, 2017, whichever shall first occur.

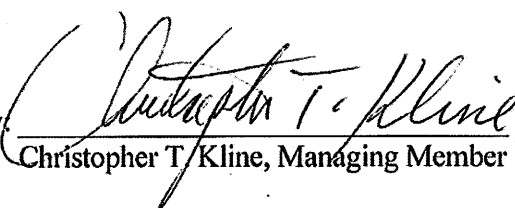
5. Expenses. Petitioners shall reimburse the Town for publication, surveying, legal and other expenses incurred by the Town in annexing the Property, subject to limitations established in an annexation agreement.

This Petition is submitted this 12th day of December, 2013.

WITNESS/ATTEST:



EAST STREET PLAZA, LLC

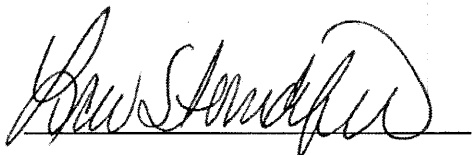
By: 
_____ Christopher T. Kline, Managing Member

NEW MARKET FOOD LION CENTER, LLC



By: 
_____ Edward D. Scott, Managing Member

EAST SIDE ACRES, LLC

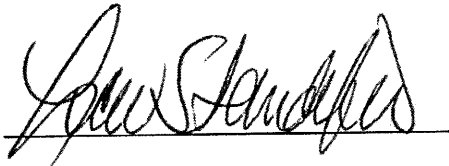


By: 
_____ Edward D. Scott, Managing Member

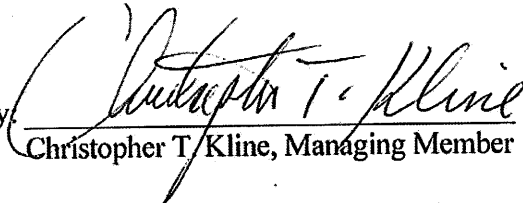
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WITNESS/ATTEST:



EAST STREET PLAZA, LLC

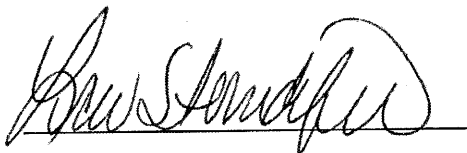
By: 
Christopher T. Kline, Managing Member

NEW MARKET FOOD LION CENTER, LLC

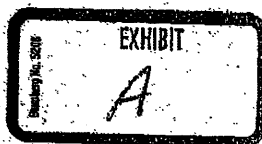


By: 
Edward D. Scott, Managing Member

EAST SIDE ACRES, LLC



By: 
Edward D. Scott, Managing Member



September 11, 2009
HS.A Job No. 5663
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**Description of Property
To be added into the Corporate Boundaries of
The Town of New Market**

**10.2223 acres±
Lands of East Side Acres, LLC,
East Street Plaza Partnership &
New Market Food Lion Center, LLC**

All those pieces or parcels of land lying on the North side of County Route #1317 also known as Old National Pike and northeast of the Town of New Market, New Market Election District #9, Frederick County, Maryland. Being all of those lands conveyed unto New Market Food Lion Center, LLC, a Maryland limited liability company, by deed dated August 5, 2003 and recorded in Liber 4481 at Folio 84 on March 19, 2004, and as shown on a plat of survey entitled "Combined Preliminary/Final Plat and Resubdivision Plat, Section I, Lot 2 into Lots 2R, 3-5 & Outlot, Turnpike Farm" as recorded in Plat book 62 at page 118 and all of the land conveyed unto East Street Plaza Partnership, a Maryland general partnership, by deed dated August 10, 2001 and recorded in Liber 2932 At Folio 1130 on August 17, 2001, and as shown on a plat of survey entitled "Addition Plat, Addition of Seawright Corporation to Lot 5, Turnpike Farm" as recorded in Plat book 71 at page 39 and a part of those lands conveyed unto East Street Plaza Partnership, by deed dated October 27, 1997 and recorded in Liber 2344 at Folio 885 on October 28, 1997, and a part of those lands conveyed unto East Street Plaza Partnership, by deed dated October 27, 1997 and recorded in Liber 2344 at Folio 863 on October 28, 1997. All deeds recorded among the Land Records of Frederick County, Maryland. All lands are shown and contained within a survey for annexation entitled "Plat of Annexation, into the Town of New Market, the property of East Street Plaza Partnership, and property of New Market Food Lion Center, LLC", as surveyed and prepared by Harris, Smariga & Associates, Inc, dated September, 2009 and being more particularly described in accordance with said survey as follows:

BEGINNING for the same at a point on the existing Town of Market Corporate Limits as recorded in Liber 6200 at folio 01 known as Resolution No. 03-01. Said point at the end of the 8th or S. 36° 42' 09" W. 324.19' line of said resolution and labeled #2038 on said Plat book 71 at page 39, thence running with said line reversed and with the outlines of

the lands to be added to said corporate limits as now surveyed the following sixteen (16) courses and distances.

N. 36° 42' 09" E.	324.19'	to a point, thence
S. 53° 17' 51" E.	127.00'	to a point, thence
S. 36° 52' 23" E.	365.28'	crossing over Morning Gate Lane to a point, said point being the corner of an Outlot as shown on Plat book 70 at page 164 thence
S. 36° 56' 41" E.	97.63'	to a point, thence
S. 22° 29' 52" W.	80.61'	to a point, thence
S. 67° 30' 08" E.	571.15'	to a point, thence
S. 12° 40' 33" W.	318.33'	to a point, thence
S. 57° 40' 33" W.	56.56'	to a point on the Northern right of way of County Route 1317 (Old National Pike), thence with the right of way
N. 77° 19' 27" W.	263.98'	to a point, thence
N. 70° 23' 07" W.	69.36'	to a point, thence
279.00' along the arc of a curve deflecting to the right, having a radius of 360.00'; said arc being subtended by a chord bearing N. 55° 08' 59" W. 272.07' to a point, thence		
N. 18° 00' 16" W.	48.06'	to a point, thence
N. 40° 15' 18" W.	50.99'	to a point, thence
N. 28° 56' 42" W.	338.67'	to a point, thence
N. 29° 12' 46" W.	125.56'	to a point, thence
N. 55° 11' 24" W.	162.58'	to the place of beginning.

September 11, 2009
HSA Job No. 5663
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The area contained by the foregoing amounts to 445,284 square feet or 10.2223 acres of land more or less.

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