

RESOLUTION PROPOSING THE ANNEXATION
OF CERTAIN LANDS INTO THE MUNICIPAL LIMITS
OF THE TOWN OF SMYRNA; DESIGNATING THE PROPOSED
ZONING CLASSIFICATION THEREOF; SCHEDULING A PUBLIC
HEARING; REFERRING THE PROPOSAL TO THE TOWN
PLANNING COMMISSION; AND NOTIFYING THE DELAWARE
OFFICE OF STATE PLANNING

WHEREAS, the municipal charter of the Town of Smyrna empowers the Town to annex additional contiguous territory adjoining the corporate limits of the Town in accordance with the procedures set forth therein, and subject to state laws of general application to municipalities pertaining to annexation of territory;

WHEREAS, the record owners of the hereinafter-described parcel of land (contiguous with the existing corporate limits of the Town) have petitioned the Town, in writing duly executed and acknowledged (such petition setting forth a description of the lands proposed for annexation, the proposed zoning classification consistent with the Town's Comprehensive Plan, the reasons for the proposed annexation, and the property owned by each petitioner);

WHEREAS, the Town Council has considered such petition and has determined that it would be in the best interests of the Town to accept such petition and initiate the proceedings required for annexation as set forth in the Town's municipal charter;

NOW THEREFORE, BE IT HEREBY RESOLVED, by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that:

1. The hereinafter-described territory, contiguous with the existing corporate limits of the Town, is hereby proposed for annexation into the Town of Smyrna:

RECORD OWNER: Affordable Home Enterprises, Inc.
 293 Swedesboro Road
 Monroeville, NJ 08343

PROPERTY ADDRESS: 5807 South DuPont Parkway
 Smyrna, DE 19977

TAX MAP ID: 1502700011

DEED REFERENCE: Book 0475 Page 0149

BRIEF DESCRIPTION:

All that certain tract, piece or parcel of land with the improvements thereon erected situated in Blackbird Hundred, New Castle County and State of Delaware, lying on the west side of southbound lane of U.S. Route 13, between Smyrna and Blackbird, being

bounded on the east by U.S. Route 13, on the south by the Town of Smyrna, on the southwest by Duck Creek, on the west by the lands of Charles Poore and on the north by Lot #1, and being more particularly described as lot #2 and in accordance with a recent survey by Earl D. Smith, Professional Land Surveyor, dated July 11, 1986,as follows, to wit:

BEGINNING at a pipe in the west right-of-way line of U.S. Route 13 at a corner for this lot and for Lot #1, said point of beginning being a distance of 1990.64 feet as measured in a southeasterly direction from the intersection of the centerline of County Road 387 with the west right-of-way line of U.S. Route 13, thence running from said point of beginning with the west right-of-way line of U.S. Route 13 on the following two (2) courses: (1) South 27 degrees 05 minutes East 224.85 feet to a pipe; thence (2) South 21 degrees 36 minutes 28 seconds East 230.55 feet to a pipe in line of the Town of Smyrna lands; thence running with said Town of Smyrna limits on the following two (2) courses: (1) South 62 degrees 55 minutes West 120.0 feet more or less to a point in the high water line of Duck Creek; thence running with the high water line of Duck Creek in a northwesterly direction a distance of 206.21 feet more or less to a point in the centerline of a ditch in line of lands of Charles Poore; thence running with the centerline of said ditch and with said lands of Charles Poore on the following (3) courses: (1) North 56 degrees 28 minutes 23 seconds West 38.64 feet; thence (2) North 38 degrees 52 minutes 46 seconds West 119.38 feet; thence (3) North 14 degrees 28 minutes 23 seconds West 161.55 feet to a corner for this lot and for Lot #1, thence running with said Lot #1 North 63 degrees 33 minutes 43 seconds East 289.55 feet to the point and place of beginning, and containing 2.8098 acres of land, be the same more or less.

The lands and premises encompassed within the areas proposed to be annexed as described above are depicted on the tax map attached hereto as Exhibit A and incorporated herein by specific reference, a copy of said tax map shall be available for inspection at the Smyrna Town Hall.

2. The proposed zoning district classification(s) for such lands is Highway Commercial which is in accordance and consistent with the Town's Comprehensive Plan.
3. The Town Council hereby places the owners of record of the lands herein, and all other interested parties, on notice that the Town intends to adopt a new zoning district classification for the area in which the lands herein are located. At such time as the new zoning district classification is adopted, these lands will be re-zoned to the new zoning district classification.
4. A public hearing to receive public comment for purposes of legislative fact-finding is scheduled for April 7, 2014 at 7:15 p.m. in the Council Chamber of Smyrna Town Hall, 27 S. Market Street Plaza, Smyrna, Delaware. Any person wishing to be heard is invited to attend. Persons desiring to submit written comments may do so by mailing such comments to: Town of Smyrna, P.O. Box 307, Smyrna, DE 19977, Attn: Town Manager. To be considered, written comments must be received by the Town Manager before the close of the public hearing.

Any individual living in the territory proposed for annexation who would be qualified to vote in an annexation election and who wishes to oppose the annexation must submit a written objection with the Town Manager prior to the close of the public hearing.

5. A copy of this Resolution shall be delivered to the Town Planning Commission as soon as conveniently possible following the adoption hereof for its advisory review and comment; provided that, if the Town Planning Commission does not submit its recommendations and comments back to the Town Council at or prior to the hereinabove-scheduled public hearing, the Town Council may proceed to consider and act upon the proposed annexation without the benefit of the Planning Commission's recommendations and comments.

6. Public Notice, setting forth the text of this resolution, shall be provided, not less than 14 days, nor more than 60 days, prior to the date set for the public hearing as follows:

- (a) By publication at least once in a newspaper of general circulation in the Town and in the territory proposed to be annexed, such publication to be in bold print or bordered in black so as to call attention thereto;
- (b) By posting in at least five (5) public places in the Town and in at least one (1) place, viewable to the public, in the territory hereby proposed for annexation
- (c) By mailing or delivering a copy of such notice to the Office of the State Planner and otherwise complying with the applicable provisions of 29 Del.C. Chapters 92 and 93 (or with any future corresponding provisions of law)
- (d) By mailing a copy of such notice, via certified mail, to the owners of record of the lands hereby proposed for annexation at their address as shown on the public tax records; written notice to one co-owner shall constitute written notice to all.

7. At any time following the herein-scheduled public hearing (as the same may be continued or re-scheduled), 1) the Town Council may pass a resolution ordering the territory proposed for annexation be annexed into the town, or 2) if an election is required because all the owners do not consent to the annexation or because a resident of the property proposed for annexation objects, the Town Council may pass a resolution ordering a special election to be held (in accordance with the public notice requirements and procedures set forth in the Town's municipal charter) at which election those qualified persons residing within the territory proposed for annexation, and each legal entity or natural person holding record title in its own name to lands within the territory proposed for annexation, shall each be entitled to one vote on the question of annexation. The adoption of the resolution ordering such special election shall ipso facto be considered the determination of the Town Council to proceed with the proposed annexation and zoning district classification if a majority of the votes cast in the special election are cast in favor of the proposed annexation; and following such favorable vote, the Town Council shall adopt a final Resolution including such territory within the municipal limits of the Town and designating the zoning district classification(s) of such territory, which final resolution, together with a plot of the territory so-annexed, shall be recorded in the Office of the Recorder of Deeds in and for

New Castle County, and a copy thereof shall be sent to the Delaware Office of State Planning.

8. The Town Council hereby places the owners of record of the lands herein proposed for annexation, and all other interested parties, on notice that, if the annexation is finally approved, the Town shall not be obligated to provide or extend any municipal facilities or improvements unless and until the Town Council, in the sole exercise of its reasonable discretion, determines that it is appropriate for the Town to do so *or* the owner or developer of any property so annexed (or any portion thereof) binds itself, with reasonable surety acceptable to the Town, to pay in full all costs and expenses to provide and/or to extend or construct such municipal facilities and improvements to serve such lands (in strict accordance with all governing federal, state, and Town regulations and standards), subject to an appropriate “recapture agreement” (acceptable to the Town) pursuant to which the owner(s) or developer(s) of other lands benefited by the extensions or improvements paid for by the initial owner/developer under the recapture agreement would pay to the Town their equitably-determined proportionate share of such costs and expenses (as a condition precedent to obtaining such extensions and/or improvements) which amounts the Town would, upon receipt, rebate to the owner or developer which had originally paid for those extensions and/or improvements.

Adopted by the Town Council of the Town of Smyrna, this 18th day of February, 2014.

Council Secretary

Mayor