

RESOLUTION # 005 -25

RESOLUTION PROPOSING THE ANNEXATION OF 1271 S DUPONT BOULEVARD AND ADJACENT ROADWAYS INTO THE MUNICIPAL LIMITS OF THE TOWN OF SMYRNA; DESIGNATING THE PROPOSED ZONING CLASSIFICATION; SCHEDULING A PUBLIC HEARING; AND REFERRING THE PROPOSAL TO THE TOWN PLANNING COMMISSION

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 and otherwise in compliance with the petition requirements set forth in the Town Charter, identifying the purpose of the annexation being to benefit from the Town's services;

WHEREAS, the Town Council has considered such petition and has determined that it would be in the best interests of the health, safety, and welfare 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: Dr. Alan J. McCarthy
652 Biddle Street
Chesapeake City, MD 21915

PROPERTY ADDRESS: 1271 S. DuPont Boulevard
Smyrna, DE 19977

TAX MAP ID: 1-00-01900-01-4800-000

BRIEF DESCRIPTION:

ALL that certain tract, piece or parcel of land situated in Duck Creek Hundred, Kent County and State of Delaware, lying on the easterly side of U.S. Route 13 and being bounded as follows: On the West by U.S. Route 13 (also known as DuPont Highway); On the North by land now or formerly of Frank Mandarano, Jr. and JoAnn Mandarano, husband and wife in Deed Record U, Volume 37, Page 318; On the East and South by land now or formerly of Carriage Realty Partnership in Deed Record Y, Volume 42, Page 237; Being more particularly described according to a plan prepared by Gerald A. Donovan

Associates, Inc. dated March 5, 1996, reference drawing 9619, said plan being an integral part hereof as follows:

BEGINNING at a concrete monument in the easterly line of U.S. Route 13 at a corner for this subject lot and corner for lands of the aforementioned Mandarano. Said point being located when measured from the intersection of the approximate centerline of County Road 12 (also known as the Smyrna-Leipsic Road) with the easterly line of U.S. Route 13, South 06 degrees 34 minutes 00 seconds East a distance of 1975.5 feet to the beginning point. Thence from said beginning point and with lands of the aforementioned Mandarano: North 83 degrees 26 minutes 00 seconds East a distance of 210.00 feet to a concrete monument at a corner for said Mandarano and a corner for lands of the aforementioned Carriage Realty Partnership. Thence with said lands of Carriage Realty Partnership the following two (2) courses and distances: (1) South 06 degrees 34 minutes 00 seconds East a distance of 200.00 feet to an iron pipe; (2) South 83 degrees 26 minutes 00 seconds West a distance of 210.00 feet to a concrete monument at a corner for said lands of Carriage Realty Partnership in the easterly line of U.S. Route 13. Thence with said line of U.S. Route 13: North 06 degrees 34 minutes 00 seconds West a distance of 200.00 feet to the point and place of beginning. Containing within the above-described courses and distances an area of 42,000 +/- square feet or 0.9642 +/- acres. The above-described property is subject to any rights-of-way, easements or restrictions as may be shown or noted in any public records, or any regulation or requirement of any public agency.

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. Pursuant to Section 3.2.10(c) of the Town Charter, upon the annexation of the property more fully described herein, "all streets, roads, and alleys immediately adjacent to the annexed parcel, up to the centerline of the street, road, or alley, shall be deemed annexed into the Town."

2. The proposed zoning district classification for such lands is Corridor Commercial (CCM), which is in accordance and consistent with the Town's Comprehensive Plan.

3. A public hearing to receive public comment for purposes of legislative fact-finding is scheduled for July 21, 2025 at 6:45 p.m. in the Council Chamber of Smyrna Town Hall, 27 S. Market Street Plaza, Smyrna, Delaware. Persons desiring to submit written comments may do so by mailing such comments to: Town of Smyrna, 27 South Market Street Plaza, Smyrna, DE 19977, Attn: Jeremy Rothwell, Planning Director, or by calling 302-389-2332 or emailing comments to jrothwell@smyrna.delaware.gov. To be considered, written comments must be received by the Planning Director 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.

4. 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.

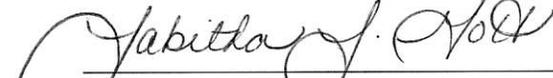
5. Public Notice, setting forth the text of this resolution (without Exhibit A), shall be provided as set forth in Section 3 of the Town Charter.

6. 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 such municipal services 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 19th day of May, 2025.



Council Secretary



Mayor

EXHIBIT A

