

**LEGAL PUBLICATION OF ORDINANCE IN SUMMARY**  
**CITY OF RUSSELLVILLE, KENTUCKY**  
**ORDINANCE NO. 2019-10**

**AN ORDINANCE ANNEXING INTO THE CITY OF RUSSELLVILLE, KENTUCKY  
CERTAIN REAL PROPERTY OWNED BY JOHN W. CATES AND WIFE,  
FRANCES CATES, THE CATES FAMILY TRUST, AND THE J.G. CATES  
IRREVOCABLE TRUST, LOCATED ALONG U.S. HIGHWAY 68,  
CONTAINING APPROXIMATELY 12.33 ACRES**

In accordance with KRS 83A.060(9), the undersigned, a licensed, practicing attorney in the Commonwealth of Kentucky, summarizes this Ordinance as follows:

- 1) This Ordinance annexes into the city limits of Russellville, Kentucky certain property containing 12.33 acres, owned by John W. Cates and wife Frances Cates, the Cates Family Trust, and the J.G. Cates Irrevocable Trust, and located along U.S. Highway 68. The zoning classification for said property shall be B3-Highway Commercial Business.
- 4) The full text of this Ordinance is available for copying and inspection at the office Robert Nishibun, Russellville City Clerk, 168 South Main Street, Russellville, during normal business hours.
- 5) The City Council of Russellville, Kentucky enacted this Ordinance after a first reading conducted on the 22nd day of October, 2019, and a second reading and passage on the 5th day of November, 2019.

**CERTIFICATION OF COUNSEL:** The undersigned attorney hereby certifies that the foregoing is an accurate summary of City of Russellville Ordinance No. 2019-10.

Elizabeth Teel, Esq.  
Attorney for the City of Russellville  
200 W. 4<sup>th</sup> Street  
P. O. Box 905  
Russellville, Kentucky 42276  
Telephone: (270) 726-7800

CITY OF RUSSELLVILLE, KENTUCKY  
ORDINANCE NO. 2019-10

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CERTAIN REAL PROPERTY OWNED BY JOHN W. CATES AND WIFE,  
FRANCES CATES, THE CATES FAMILY TRUST, AND THE J.G. CATES  
IRREVOCABLE TRUST, LOCATED ALONG U.S. HIGHWAY 68,  
CONTAINING APPROXIMATELY 12.33 ACRES**

WHEREAS, John W. Cates, France Cates, The Cates Family Trust, and the J.G. Cates Irrevocable Trust are the owners (hereinafter “the Property Owners”) of certain real property located along U.S. Highway 68 which contains approximately 12.33 acres; and

WHEREAS, the Property Owners have requested and consented to the annexation of said property by and into the City of Russellville, Kentucky, as demonstrated and ratified by the “Consent to Annexation” attached hereto and labeled as “Exhibit 1”; and

WHEREAS, the City Council and the Mayor, on behalf of the City of Russellville, deem said annexation as beneficial to the City, its citizens, and that all legal requirements have been met in order to proceed with said annexation;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL IN AND FOR THE CITY OF RUSSELLVILLE, KENTUCKY AS FOLLOWS:

- (1) The “Consent to Annexation” attached hereto as “Exhibit 1” meets all legal requirements set forth in KRS 81A.412 and is hereby accepted and agreed to by the City of Russellville.
- (2) The property located along U.S. Highway 68, which is more particularly described in “Exhibit 1” attached hereto, is hereby annexed by and into the City of Russellville, Kentucky.
- (3) The zoning classification for the annexed property shall be B3-Highway Commercial Business as is set forth in the zoning map attached hereto and labeled as “Exhibit 2”.
- (4) In the event any provision of this Ordinance is invalid for any reason, such invalidity shall

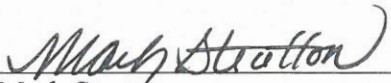
not affect any other provisions.

(5) This Ordinance shall become effective upon its passage and publication according to law.


**FIRST READING** conducted on the 22nd day of October, 2019.

**SECOND READING** conducted and **PASSAGE** on the 5th day of November, 2019.

**APPROVED BY:**

  
Mark Stratton  
Mayor

**ATTEST:**

  
Robert F. Nishibun  
City Clerk

At a meeting of the City Council of the City of Russellville, Kentucky, held on November 5, 2019, the foregoing ordinance was adopted, after full discussion, by the following vote:

**AYES:**

Jimmy Davenport  
Pat Bell  
Sandra Kinser  
Diana Walker  
Larry Wilcutt

**NAYS:**

**ABSENT:**

Darlene Gooch

**ABSTAINING:**

## **CONSENT TO ANNEXATION, RELEASE AND RESTRICTIVE COVENANT**

THIS CONSENT TO ANNEXATION, RELEASE AND RESTRICTIVE COVENANT made and entered into this 9<sup>th</sup> day of October, 2019, by and between and John W. Cates and wife, Frances Cates, 376 W.H. Brown Road, Russellville, Logan County, Kentucky 42276; The Cates Family Trust dated March 21, 2006, by John W. Cates, Co-Trustee, and Frances B. Cates, Co-Trustee, 376 W.H. Brown Road, Russellville, Logan County, Kentucky 42276; and The J.G. Cates Irrevocable Trust, dated the 27<sup>th</sup> day of January, 2005, by J.G. Cates, Co-Trustee, John W. Cates, Co-Trustee, and Bonnie DeArmond, Co-Trustee, 926 Newtown Road, Russellville, Logan County, Kentucky 42276 ("Grantors") and the CITY OF RUSSELLVILLE, KENTUCKY ("Grantee") 168 South Main Street, Russellville, Logan County, Kentucky 42276;

WHEREAS, Grantors have requested Grantee to provide municipal services and/or water sewer services, as they become available, to Grantors' property located at (the "Property"), more specifically described below, into the City of Russellville, Kentucky;

WHEREAS, in consideration of the Grantee's providing of future municipal services and/or water sewer services to the Property, Grantors have requested Grantee to annex the Property;

WHEREAS, in further consideration of the Grantee's providing future municipal services and/or water sewer services to the Property, Grantors acknowledge that the Property may not be assigned a zoning designation in accordance with Grantors' wishes, and Grantors release Grantee from any liability associated with the annexation and zoning of the Property.

### **IT IS THEREFORE AGREED AS FOLLOWS:**

1. Grantors hereby request and consent to annexation of the Property into the City of Russellville, Kentucky pursuant to KRS §81A.412. Grantors shall be prohibited from opposing



said annexation. In the event Grantors execute a remonstrance petition opposing said annexation, their signatures shall be deemed invalid and of no effect pursuant to KRS §81A.420.

2. Grantors hereby release the City of Russellville ("Grantee"), the Logan County Planning Commission, Russellville Water Department, and their respective agents, officers, employees and representatives, from any and all claims arising out of or related in any way to the annexation and zoning of the Property.

3. The Property is more particularly described as follows:

Being a certain parcel of land located adjacent to the City Limit of Russellville, Logan County, Kentucky, and on the waters of Town Creek and being further described as follows:

Unless stated otherwise, any monument referred to as an iron rebar (set) is a 5/8-inch by 18-inch rebar with a blue plastic cap stamped "DDI T. FUTCH PLS # 4163". All bearings contained herein were obtained by Trimble GPS Equipment using Kentucky (south) coordinate system.

BEGINNING at a point in the south right-of-way line of US Highway 68 in the bottom of Town Creek a corner to Clem D. Carter (Deed Book 258 Page 358); thence with Clem D. Carter the following four (4) calls, South 23° 21' 36" West, 507.69 feet to a point in Town Creek; thence South 31° 51' 36" West, 424.88 feet to an iron rebar (set); thence South 39° 51' 36" West, 231.00 feet to a point in Town Creek; thence South 78° 09' 24" East, 17.37 feet to a point in the center of Town Creek a corner to Jeff Rogers (Deed Book 386 Page 480); thence with Jeff Rogers South 46° 59' 09" West, 164.96 feet to a point in the center of Town Creek a corner to Logan County Agricultural Extension Foundation, Inc. (Deed Book 432 Page 660); thence with Logan County Agricultural Extension Foundation, Inc. the following four (4) calls, North 43° 17' 06" West, 55.96 feet to a 5/8" rebar and cap (found), PLS # 3290; thence North 46° 27' 18" East, 192.93 feet to a 5/8" rebar and cap (found), PLS # 3290; thence North 44° 43' 55" East, 162.89 feet to a 5/8" rebar and cap (found), PLS # 3290; thence North 35° 18' 41" East, 61.77 feet to a 5/8" rebar and cap (found), PLS # 3148, a corner to Owen Transport Services, LLC (Deed Book 421 Page 607); thence with Owen Transport Services, LLC the following four (4) calls, North 41° 25' 57" East, 125.24 feet to a 5/8" rebar and cap (found), PLS # 3148; thence North 22° 45' 28" East, 193.88 feet to a 5/8" rebar and cap (found), PLS # 3148; thence North 17° 06' 03" East, 141.79 feet to a 5/8" rebar and no cap (found); thence North 25° 40' 31" East, 417.64 feet to a 5/8" rebar and cap (found), PLS # 3148 in the south right-of-way line of US Highway 68; thence with said highway South 84° 38' 24" East, 45.45 feet to the Point of BEGINNING;



containing 51,744 sq. ft. or 1.19 acres more or less; thence continuing across US Highway 68 a reference call of North 09° 06' 00" East, 248.62 feet to a point in the center of Town Creek a corner to William D. Johnson (Deed Book 425 Page 271) being a second Point of BEGINNING; thence with the north right-of-way line of US Highway 68 the following sixteen (16) calls, North 85° 09' 29" West, 249.87 feet to a point; thence North 85° 16' 25" West, 97.45 feet to a 2" round metal post (found); thence North 86° 16' 25" West, 303.26 feet to a point; thence North 84° 02' 54" West, 251.74 feet to a point; thence North 87° 35' 44" West, 100.00 feet to a 2" round metal post (found); thence South 84° 48' 35" West, 151.33 feet to a 2" round metal post (found); thence North 89° 01' 40" West, 200.06 feet to 2" round metal post (found); thence North 83° 18' 23" West, 200.56 feet to a 2" round metal post (found); thence North 87° 35' 44" West, 29.20 feet to a point in the east right-of-way line of WH Brown Road (40' right-of-way); thence crossing WH Brown Road North 87° 35' 44" West, 41.19 feet to a 5/8" rebar and cap (found), PLS #3455, a corner to John W. Cates (Deed Book 381 Page 635); thence continuing with said highway and John W. Cates North 87° 35' 44" West, 229.96 feet to a 5/8" rebar and no cap (found) a corner to Cates 2009 Family Trust (Deed Book 393 Page 368); thence continuing with said highway and Cates 2009 Family Trust North 87° 35' 44" West, 349.65 feet to a point; thence North 89° 53' 10" West, 41.66 feet to a 5/8" rebar and cap (found), PLS # 3290 a corner to J. G. Cates Irrevocable Trust (Deed Book 358 Page 667); thence continuing with said highway and J. G. Cates Irrevocable Trust North 89° 53' 10" West, 208.54 feet to a 2" round metal post (found); thence South 89° 32' 31" West, 400.50 feet to a 2" round metal post (found); thence North 78° 38' 17" West, 179.22 feet to a 5/8" rebar and cap (found), PLS # 3455 in the center of the old location of Newton Road; thence with said center of old road North 04° 26' 03" East, 311.67 feet to an iron rebar (set); thence North 65° 28' 59" East, 20.15 feet to a point in the south right-of-way line of WH Brown Road (40' right-of-way); thence with the south right-of-way line of WH Brown Road the following four (4) calls, South 84° 13' 46" East, 785.00 feet to a 5/8" rebar and cap (found), PLS # 3290, a corner to the aforementioned Cates 2009 Family Trust; thence South 84° 07' 03" East, 383.82 feet to a 5/8" rebar and cap (found), PLS # 3290, a corner to the aforementioned John W. Cates; thence South 84° 19' 31" East, 230.00 feet to a point; thence South 06° 56' 46" West, 186.59 feet to a point; thence crossing WH Brown Road South 87° 35' 44" East, 41.10 feet to a point; thence a new division of J. G. Cates Irrevocable Trust the following seven (7) calls, South 87° 35' 44" East, 27.20 feet to an iron rebar (set); thence South 83° 18' 23" East, 199.94 feet to an iron rebar (set); thence South 89° 01' 40" East, 194.87 feet to an iron rebar (set); thence North 84° 48' 35" East, 151.95 feet to an iron rebar (set); thence South 87° 35' 44" East, 104.87 feet to an iron rebar (set); thence South 84° 02' 54" East, 252.31 feet to a point located North 86° 16' 25" West, 20.00 feet from an iron rebar (set) for reference; thence South 86° 16' 25" East, 302.73 feet to an iron rebar (set) in the line of John Cates (Deed Book 215 Page 11); thence with a new division of John Cates the following three (3)

calls, South 85° 16' 25" east, 97.94 feet to an iron rebar (set); thence South 85° 09' 29" East, 206.48 feet to an iron rebar (set); thence South 85° 09' 29" East, 31.53 feet to a point in the center of Town Creek in the line of William D. Johnson (Deed Book 425 Page 271); thence South 08° 33' 05" East, 51.40 feet to the second Point of BEGINNING; containing 485,233 sq. ft. or 11.14 more or less according to a field survey conducted by DDI Engineering under the direction of Timothy G. Futch, "PLS #4163", during the month of September 2019, for a total of 536,977 sq. ft. or 12.33 acres more or less.

Being a part of the same property conveyed to John Cates and wife Judy Cates from W. H. Brown and wife Vacova Brown as recorded by deed dated July 24, 1974 in Deed Book 215 Page 11, and being a part of the same property conveyed to J. G. Cates Irrevocable Trust from J. G. Cates as recorded by deed dated January 27, 2005 in Deed Book 358 Page 667, and being the same property conveyed to John W. Cates and wife Frances Cates from William E. Johnson as recorded by deed dated May 30, 2008 in Deed Book 381 Page 635, and being the same property conveyed to Cates 2009 Family Trust from William E. Johnson as recorded by deed dated April 23, 2010 in Deed Book 393 Page 368, all recorded in the office of the Logan County Court Clerk, Russellville, Kentucky.

4. Grantors shall not transfer the Property or any portion thereof without first notifying Grantee in writing and advising the proposed transferee of the terms hereof. Grantors shall not transfer the Property or any portion thereof until their transferee executes a similar document which releases the above released parties from any and all liability arising out of the annexation and zoning of the Property.

5. This Consent to Annexation, Release and Restrictive Covenant shall be perpetual and shall run with the Property, and shall be binding upon Grantors, and their heirs and assigns.

6. Grantors certify that the Property is not a part of an agricultural district established pursuant to KRS §262.850 and that the Property will not be included hereafter in an agricultural district. In the event Grantors execute a petition to include the Property in an agricultural district, their signatures shall be deemed invalid and of no effect, and the Property shall not be included in the agricultural district.

7. In the event that the Property is in an agricultural district, this document "Consent to Annexation, Release and Restrictive Covenant" will serve as written authorization to decertify and/or remove the Property as described herein from any agricultural district established by KRS §262.850, latest revisions. At the Grantee's request, the Grantor shall provide a letter requesting decertification of said agricultural district.

8. Grantors hereby certify that the Consent to Annexation, Release and Restrictive Covenant form will also serve as their intent to annex property which may not be fully described or outlined in the property description found in subsection 3 of this form. The Grantors further certify and agree that the signing of a Consent to Annexation, Release and Restrictive Covenant form without a specific description does not void nor invalidate the Consent to Annexation, Release and Restrictive Covenant signed by the Grantor but does provide their intent to sign a subsequent document which specifically outlines through a metes and bounds description of the property to be included in the annexation.

9. Any existing non-conforming uses or structures waived from the application of said applicable Ordinances are identified as the following:

NONE

10. Grantors hereby authorize the City of Russellville ("Grantee"), the Logan County Planning Commission, Russellville Water Department, their employees, officers, agents and representatives the right of entry onto the property described in Subsection 3 above to perform the necessary task and functions to accomplish the annexation, i.e., field survey work.

11. Grantors hereby acknowledge that they are in receipt of a copy of Title 15 of the Russellville Code of Ordinances, entitled "Land Usage".



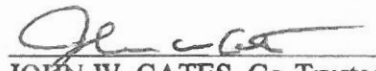
12. Prior to the Annexation of the property Grantors shall comply with Title 15 of the Russellville Code of Ordinances entitled "Land Usage", and all amendments thereto if the Property is or subsequently becomes a part of Russellville Water Department's water/sewer service areas.

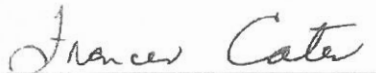
GRANTEES

  
JOHN W. CATES

  
FRANCES CATES

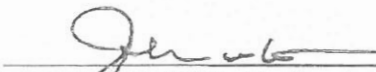
THE CATES FAMILY TRUST  
DATED MARCH 21, 2006

  
JOHN W. CATES, Co-Trustee

  
FRANCES CATES, Co-Trustee

THE J.G. CATES IRREVOCABLE TRUST  
DATED THE 27<sup>TH</sup> DAY OF JANUARY, 2005

  
J.G. CATES, Co-Trustee

  
JOHN W. CATES, Co-Trustee

Bonnie Dearmond  
BONNIE DEARMOND, Co-Trustee

GRANTOR:

CITY OF RUSSELLVILLE

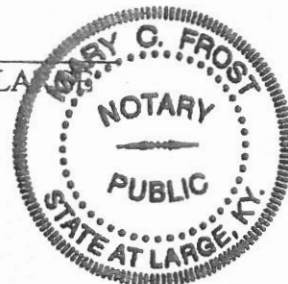
Mark Strutton  
By:

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF LOGAN )

I, Mary Furst, a Notary Public in and for the Commonwealth and County aforesaid,  
do hereby certify that the foregoing CONSENT TO ANNEXATION, RELEASE AND  
RESTRICTIVE COVENANT was this day produced to me in my County by John W. Cates and  
Frances Cates, acknowledged by them to be their voluntary act and deed.

WITNESS my hand this 9th day of October, 2019.

Mary C. Furst  
NOTARY PUBLIC, KENTUCKY AT LARGE



My Commission Expires:

5-16-23

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF LOGAN )

I, Mary Furst, a Notary Public in and for the Commonwealth and County aforesaid,  
do hereby certify that the foregoing CONSENT TO ANNEXATION, RELEASE AND  
RESTRICTIVE COVENANT was this day produced to me in my County by The Cates Family  
Trust dated March 21, 2006, by John W. Cates, Co-Trustee and Frances Cates, Co-Trustee, and  
acknowledged by them to be its voluntary act and deed.

WITNESS my hand this 9<sup>th</sup> day of October, 2019.

Mary C. Frost  
NOTARY PUBLIC, KENTUCKY AT LARGE



My Commission Expires:

5-16-23

COMMONWEALTH OF KENTUCKY )  
COUNTY OF LOGAN )

I, Mary Frost, a Notary Public in and for the Commonwealth and County aforesaid, do hereby certify that the foregoing CONSENT TO ANNEXATION, RELEASE AND RESTRICTIVE COVENANT was this day produced to me in my County by The J.G. Cates Irrevocable Trust dated the 27<sup>th</sup> day of January, 2005, by J.G. Cates, Co-Trustee, John W. Cates, Co-Trustee, and Bonnie DeArmond, Co-Trustee, and acknowledged by them to be its voluntary act and deed.

WITNESS my hand this 9<sup>th</sup> day of October, 2019.

Mary C. Frost  
NOTARY PUBLIC, KENTUCKY AT LARGE



My Commission Expires:

5-16-23

COMMONWEALTH OF KENTUCKY )  
COUNTY OF LOGAN )

I, Elizabeth H. Tol, a Notary Public in and for the Commonwealth and County aforesaid, do hereby certify that the foregoing CONSENT TO ANNEXATION, RELEASE AND RESTRICTIVE COVENANT was this day produced to me in my County by City of Russellville, by Mayor Mark Strother, acknowledged by him to be its voluntary act and deed.

WITNESS my hand this 4 day of October, 2019.

  
NOTARY PUBLIC, KENTUCKY AT LARGE

My Commission Expires:

11-13-21

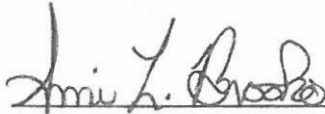
**This Instrument Prepared By:**

**AMI L. BROOKS**

**Brooks & Hendricks, PLLC**

**348 West 4<sup>th</sup> Street**

**Russellville, KY 42276**

  
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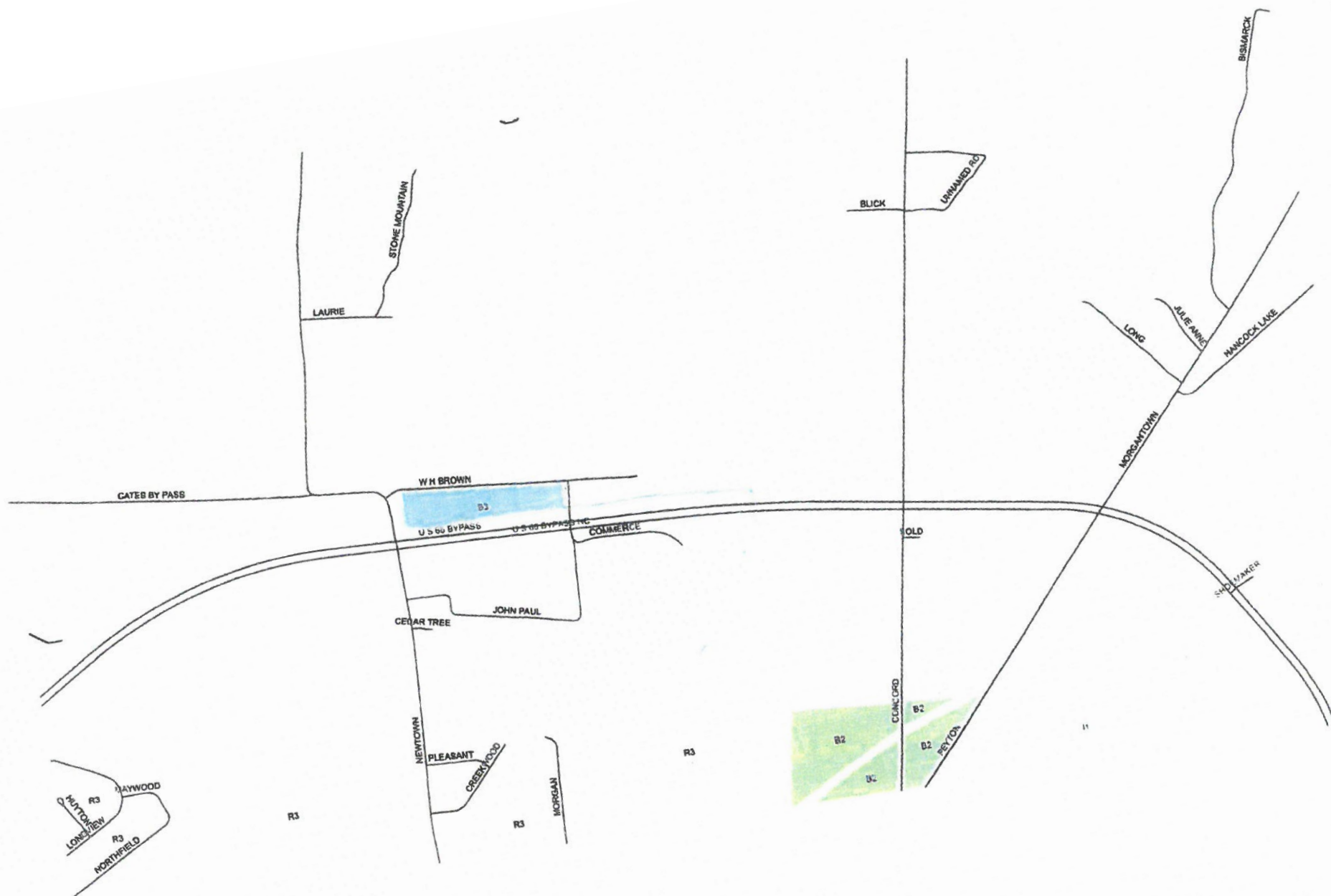


EXHIBIT  
**2**



R2 MAYWOOD

R3

NEWTOWN

CLAR TREE

JOHN PAUL

PLEASANT

CREEKWOOD

R2 MORGAN

U.S. 88 BYPASS

U.S. 88 BYPASS VIC

WH BROWN CONNECTOR

COMMERCE

CATER BY PASS

WH BROWN

B.1

CONCORD

SOLD

B.4

B.2

B.3