

**SUPPLEMENTAL PETITION**  
**FOR ANNEXATION**

To: The Honorable Arthur J. Auxer, III, Mayor

From: George Kalathas

Date: October 27, 2017

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George Kalathas, hereinafter referred to as Petitioner, submits this Supplemental Petition for Annexation, to supplement his Petition for Annexation originally submitted January 26, 2012, for the annexation of three (3) contiguous parcels of real property abutting the municipal boundary of Shepherdstown, hereinafter referred to as the Property, containing 8.276 acres in the aggregate. Attached hereto as Exhibit A is a copy of the original petition for annexation.

**Background and Procedural History**

The Petitioner submitted the Petition for Annexation on January 26, 2012. The contents of this Petition remain Petitioners request. After reviewing the file kept by the Town on his original petition, Petitioner is submitting this Supplemental Petition in an effort to address issues that may be unresolved after the public hearing held by the Planning Commission in July, 2012. Petitioner remains eager to have his property annexed by the Town.

According to the minutes of the Planning Commission meeting held on July 16, 2012, publication of a public hearing on the matter appeared in the Shepherdstown Chronicle on June 22, 2012, and the public hearing on the matter was held at this July 16, 2012 meeting. The Planning Commission continued the matter to the August 2012 meeting for Petitioner to consider supplementing and clarifying the petition to state "what is not planned and what is planned" as future development of the Property or to amend the petition to request R-1 zoning. On August 31, 2012, the Petitioner sent a letter to the Planning Commission stating that the intention of the Petitioner is to develop the property as a restaurant and special event venue with possibly a small number of overnight accommodations. There have been no other proceedings or communications regarding this matter until the filing of this Supplemental Petition.

**Supplemental Information**

A review of the file maintained by the Town on this matter indicates there were three issues of concern, namely: (1) the intended use of the property; (2) the requested zoning component of the Town Annexation Policy and its application to the original petition; and (3) the

traffic study component of the Town Annexation Policy and its application to the original petition.

#### Intended Use of the Property

The original Petition states that the intended use of the property is “stabilization and rehabilitation of the stone home.”

The August letter from the Petitioner to the Planning Commission written in response to the Planning Commission’s request as contained in the minutes of the July 2012 public hearing to “supplement and clarify the petition to state (in the negative) what is not planned and to state (positively) what is planned or amend the petition to request residential zoning (although that would not be consistent with the Petitioner’s plans” states as follows:

*Once the stone home is further stabilized, it is the Petitioner’s expectation and firm intention that it be used and converted into a restaurant, special event facility (weddings, receptions, etc.) and possibly a small number of overnight accommodations (certainly less than five) as a lodge or an inn.*

*This use would most closely be embraced within the permitted uses specified in Code Section 9-602(e).*

The Petitioner’s intended use of the property remains the same. It is his intention to first shore up the house. Depending on many factors that all new businesses must face, not the least of which are finances, whether he builds additional facilities for an event venue or larger restaurant space or lodging, he cannot state with certainty at this time. The Petitioner can state that any development of the property into a restaurant, event venue or lodging will happen in phases, as a growing business will dictate, and that he understands any development of the Property will require his request of permission of such development from the Town. Please note that although the August 2012 letter states that the overnight accommodations would be “certainly less than five,” Petitioner has made no determination as to the size of any lodging accommodations; and as is stated herein, the size and number of any lodging accommodations will be dictated by market factors and subject to Town approval of any such development.

#### Requested Zoning for the Property

Section 9-1424 Annexation of the Town Ordinance requires among other things for a petition for annexation contain “reasons for the annexation request, including any development plans, proposals for the subject property, and requested zoning.” The original Petition for Annexation states “this petition is submitted conditioned on the Property being annexed in the Residential Commercial District.”

The August letter from the Petitioner to the Planning Commission written in response to the Planning Commission’s request as contained in the minutes of the July 2012 public hearing

to “supplement and clarify the petition to state (in the negative) what is not planned and to state (positively) what is planned or amend the petition to request residential zoning (although that would not be consistent with the Petitioner’s plans” states as follows:

*Lest there be no misunderstanding, Mr. Kalathas has submitted his Petition exclusively within this permitted use and none other enumerated within Section 602.*

*Further, the Petitioner is aware that if the floor area of the project would exceed 3,000 square feet, the provisions of Section 9-603 would require the Petitioner to seek as Special Exception from the Board of Zoning Appeals.*

Section 9-205 Application of regulations, subsection (a) Zoning of annexed areas, provides that “all territory which may be annexed to the town shall from time of annexation be considered as being in the R-1 District until changed by ordinance, unless the resolution of annexation by the Town Council provides for other district classification or classifications.”

Since the time of his original Petition, the Petitioner has been working with the Town Zoning Official. The Zoning Official suggested instead of an RC zoning classification, the Petitioner may find a PUD zoning classification preferable. Considering Petitioner’s intended future use of the Property, Petitioner is open to either an RC or PUD zoning classification for the Property. Petitioner would prefer the annexation ordinance contain the zoning classification, but again, in consultation with the Town Zoning Official, understands that the zoning classification may be achieved on a “parallel track” with the annexation petition, so that the effect is the same. However the goal is reached, Petitioner would like to achieve an annexed property in which he can move forward with his intended use of the property. Petitioner feels that achieving this result is efficient since many of the questions or concerns voiced at the public hearing were in regard to his intended use of the property. An annexation ordinance outlining what the use will be could serve both the Town and the Petitioner well.

#### Traffic Study

Section 9-1424 Annexation of the Town Ordinance requires among other things for a petition for annexation contain “a statement of projected impacts to the Corporation of Shepherdstown which would result from the proposed annexation and all associated development activities, including:...a traffic study, conducted by a certified traffic engineering firm, which details the projected impacts on traffic from the proposed development activity.”

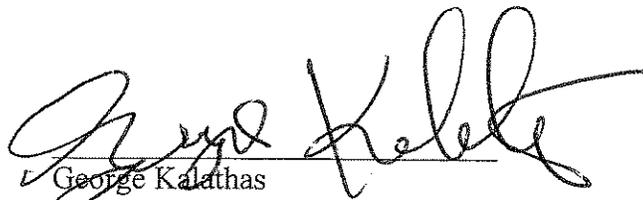
The original petition stated “no traffic to or from the Property will be generated beyond that which now exists as only the Petitioner accesses the Property through other real estate owned by him outside of the Town’s corporate limits nor will the Property provide any access to any other portion of the Town.”

Since the time of his original Petition, the Petitioner has been working with the Town Zoning Officials. The Zoning Official suggested that an option that the Petitioner might consider is a "conditional" approval of the annexation – conditioned on the fulfillment of the required traffic study. Petitioner is willing to accept this contingency if it is acceptable to the Planning Commission and the Town Council.

Summary

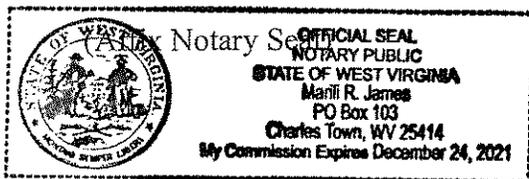
Petitioner is hopeful that this Supplemental Petition for Annexation adequately informs the Planning Commission and the Town of his intent to develop his property into one that is a beneficial addition to the Town. He looks forward to working with the Planning Commission and the Town Council in moving toward his longtime goal, or dream, for the Property.

Respectfully submitted,

  
George Kalathas  
Owner/Petitioner

State of West Virginia  
County of Jefferson

The foregoing Supplemental Petition for Annexation was acknowledged before me in my said county and state by George Kalathas, Owner/Petitioner, this 6<sup>th</sup> day of December, 2017.



  
Notary Public

My Commission expires: 12/24/21

Prepared and submitted by:

Alice Anne Chakmakian

Alice A. Chakmakian  
Attorney for the Petitioner  
108 N. George St., 3<sup>rd</sup> Floor  
Charles Town, WV 25414

