



**SALISBURY CITY COUNCIL
WORK SESSION AGENDA**

**OCTOBER 17, 2016
COUNCIL CHAMBERS
GOVERNMENT OFFICE BUILDING**

- 4:30 p.m. Proclamation presentation– Jaycee Week – presented by Mayor Jacob R. Day
- 4:40 p.m. West Salisbury Elementary School Annexation – Bill Holland
- 5:10 p.m. Toy Gun Discussion – Chief Duncan
- 5:40 – 6:00 p.m. Council discussion/Recess/Reconvene
- 6:00 p.m. Motion to Convene in Closed Session to interview candidates for the vacant District 5 Council position as permitted in accordance with the Annotated Code of Maryland §10-508(a)(1)
- 6:00 p.m. – Interviews
 - 7:30 p.m. – Council discussion
 - Motion to Adjourn and reconvene in Open Session

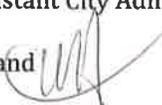
Statement to Public – Council President Heath

*Times shown are approximate. Council reserves the right to adjust the agenda as circumstances warrant.
The Council reserves the right to convene in Closed Session as permitted under the Annotated Code of Maryland 10-508(a).*



City of
Salisbury
Jacob R. Day, Mayor

Memorandum

To: Tom Stevenson, City Administrator
CC: Julia Glanz, Assistant City Administrator
From: William T. Holland 
Date: October 10, 2016
Ref: West Salisbury Elementary School Annexation

Attached is the information for the West Side Elementary School Annexation for the October 17th City Council Work Session. Please note that the annexation package doesn't include a Fiscal Impact Memorandum or a Concept Development Plan (CDP). The reason being that neither of the aforementioned documents are included is that the property is owned by Wicomico County and isn't subject to property taxes and the CDP is being reconstructed as a school. What the City Council should be focusing on is the Annexation Agreement. The Annexation Agreement been approved by the Wicomico County Board of Education, City Public Works Department, and has been reviewed by Chris Jakubiak.

Let me know if you have any questions.

BOARD OF EDUCATION OF WICOMICO COUNTY



JOHN E. FREDERICKSEN, PH.D.
SUPERINTENDENT OF SCHOOLS

P.O. Box 1538
2424 NORTHGATE DRIVE
SALISBURY, MD 21802-1538

410-677-4400
FAX 410-677-4444
www.wcboe.org

SUCCESS - EVERY STUDENT, EVERY DAY

DONALD L. FITZGERALD
PRESIDENT
KIMBERLY S. HUDSON
VICE PRESIDENT
TYRONE A. CHASE, PH.D.
CAROLYN J. ELMORE, ED.D.
JOSEPH R. OLLINGER
JOHN PALMER
RONALD O. WILLEY

January 19, 2016

Mr. William T. Holland
Director of Building, Permitting & Inspections
City of Salisbury
125 N. Division Street, B13
Salisbury, Maryland 21801

RE: West Salisbury Elementary School – Annexation
Parcel #255

Dear Mr. ^{Bill}Holland:

Per our meeting on January 14, 2016, it is our understanding that the City of Salisbury is requiring Annexation for public water and sewer connections for the replacement West Salisbury Elementary School project. Please see the attached signed Petition for Annexation. In addition attached is a check for the required \$25,000 Annexation fee per Resolution 1470.

Thank you for your time, any questions, please contact me at 410-677-5926.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Leisl', is written over the word 'Sincerely,'.

Leisl Ashby, AIA, CCS, NCARB
Director of Facility Services | **Planning & Construction**
Wicomico County Public Schools

cc: Joe Vignale, WCPS
Matthew Auchey, WCPS
File

Encl: Signed Petition for Annexation & \$25,000 fee

p:_facilities\16_westsby es_projects\1116300_replacement school\annexation\wse_petitionannexation_ltr.docx

CITY OF SALISBURY

PETITION FOR ANNEXATION

To the Mayor and Council of the City of Salisbury:

I/We request annexation of my/our land to the City of Salisbury.

Parcel(s) # WEST SALISBURY ELEMENTARY SCHOOL
255

Map # 29

SIGNATURE (S)

Donald L. Fitzgerald

Donald L. Fitzgerald
President, Wicomico County Board of Education

Monique Westal

1-15-16

Date

1-15-16

Date

Date

Date

5-15-19

City of Salisbury



MARYLAND

Salisbury



2010

JACOB R. DAY
MAYOR

M. THOMAS STEVENSON, JR.
CITY ADMINISTRATOR

JULIA GLANZ
ASSISTANT CITY ADMINISTRATOR

125 NORTH DIVISION STREET
SALISBURY, MARYLAND 21801
Tel: 410-548-3170
Fax: 410-548-3107

MICHAEL S. MOULDS, P.E.
DIRECTOR OF PUBLIC WORKS

CERTIFICATION

WEST SALISBURY ELEMENTARY SCHOOL – WEST ROAD ANNEXATION

This is to certify that I have verified the petitions for the annexation and that to the best of my knowledge the persons having signed the petition represent at least 25% of the registered voters residing in the area to be annexed and are the owners of at least 25% of the assessed valuation of real property located in the area to be annexed.

Leslie C. Sherrill
Surveyor

Date: 2/22/2016

West Salisbury Elementary – West Road Certif.



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

P.O. BOX 870

125 NORTH DIVISION STREET, ROOMS 203 & 201

SALISBURY, MARYLAND 21803-4860

410-548-4860

FAX: 410-548-4955



JACOB R. DAY
MAYOR

BOB CULVER
COUNTY EXECUTIVE

TOM STEVENSON
CITY ADMINISTRATOR

R. WAYNE STRAUSBURG
DIRECTOR OF ADMINISTRATION

March 18, 2016

Liesl Ashby
Wicomico County Board of Education
2424 Northgate Drive, Suite 100
Salisbury, MD 21801

**RE: ANNEXATION ZONING – West Salisbury Elementary School –West Road
Annexation – West Road and Adventist Drive – 14.27 acres; M-29; G-19; P-255.**

Dear Mrs. Ashby:

The Salisbury Planning Commission at its March 17, 2016, meeting, forwarded a **FAVORABLE** recommendation to the Mayor and City Council for this property to be zoned **R-8 Residential** upon annexation. The Commission also found that the proposed zoning is consistent with the Wicomico County Zoning, and the Comprehensive Plan recommendation for Medium density residential development in this area.

If you have any questions concerning this matter, please don't hesitate to contact Gloria Smith or myself at 410-548-4860.

Sincerely,

John F. Lenox, AICP
Director
Salisbury/Wicomico Planning & Zoning

cc: Mike Moulds, Director of City Public Works Department
Bill Holland, Director of Building, Permits, and Inspections Department
Assessments



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

P.O. BOX 870

125 NORTH DIVISION STREET, ROOMS 203 & 201

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MAYOR

TOM STEVENSON
CITY ADMINISTRATOR

BOB CULVER
COUNTY EXECUTIVE

R. WAYNE STRAUSBURG
DIRECTOR OF ADMINISTRATION

STAFF REPORT

MEETING OF MARCH 17, 2016

NAME: West Salisbury School – West Road Annexation

APPLICANT: The City of Salisbury - Referral

LOCATION: Northwesterly side of the City of Salisbury, on the easterly side of West Road and the southerly side of Adventist Drive.
Tax Map #29, Parcel #255, Grid #19

REQUEST: Annexation Zoning – 14.27 acres

I. BACKGROUND DATA:

A. Introduction.

The City Administration has referred the West Salisbury School – West Road annexation located on the northwesterly side of Salisbury to the Planning Commission for review and recommendation of an appropriate zoning designation. The property is located on the easterly side of West Road and the southerly side of Adventist Drive and consists of 14.27 acres. (See Attachments #1 and 2.)

Under the procedures established by the Mayor and City Council in 1987, the zoning classification of the area will be included in the resolution that annexes the property to the City. Prior to this policy, annexations were conducted by resolution and the zoning category established by a separate ordinance on a separate time schedule. This policy now puts the zoning classification and annexation on the same schedule.

B. Area Description.

This annexation area consists of one parcel 14.27 acres in size and that is developed with an elementary school, parking and related amenities. (See Attachment #2.)

II. ZONING ANALYSIS.

A. Existing Zoning.

The annexation area and the adjoining County area (south and east) is zoned R-8 Residential. (See Attachments #3 and 4.)

B. Zoning History.

The proposed annexation area was zoned R-10 Residential by the County on April 1, 1968. In 1993 the R-10 District was deleted and replaced with R-8 Residential zoning. During the most recent Comprehensive Rezoning in September 2004, the area remained zoned R-8 Residential.

C. County Plan.

Wicomico County's Comprehensive Plan was adopted on February 3, 1998. This site is located within the area designated as "Metro Core".

The Draft County Comprehensive Plan designates this area as "Medium-density Residential".

D. Zoning for Annexed Areas.

1. Introduction.

Current City policy requires that all areas to be annexed shall be submitted to the Salisbury-Wicomico Planning Commission for review and recommendation of an appropriate zoning district. The Zoning Code does not establish specific procedures for zoning lands to be annexed to the City of Salisbury. The classification of future City areas, therefore, is conducted consistent with local adopted plan recommendations and Maryland Annexation Law.

2. Adopted Plans.

The Planning Commission is a jointly established agency for both the City of Salisbury and Wicomico County. One of its basic charges is to prepare and recommend various plans guiding the long-range development of both jurisdictions.

The information below summarizes the legal status of the plans currently in effect for Wicomico County and the City of Salisbury.

- a. The Salisbury Comprehensive Plan - The Salisbury City Council adopted the current Comprehensive Plan on July 12, 2010. That document includes land use policies for all lands within the Corporate Limits as well as a Municipal Growth Element addressing growth areas outside the Corporate Limits.

The Land Use Map of the City Plan designates this area as a "Medium-density residential".

- b. The Wicomico County Comprehensive Plan - The Wicomico County Council adopted its Plan on February 3, 1998. The Land Use Map of the County Comprehensive Plan designates this area as "Metro Core." The Draft 2014 County Plan designates this area as "Medium density residential".

3. Maryland Law.

House Bill 1141 made two changes to Annexation Procedures that became effective October 1, 2006. They are:

1. **The Five-Year Rule.** First, the rule is applied solely on zoning. In the past, the five-year rule could be applied whenever a proposed new zoning classification was substantially different from the use envisioned "in the current and duly adopted master plan." The reference to the master plan is now gone and the issue becomes the degree of change from the current county zoning classification to the proposed municipal classification following the annexation. When the zoning change is from one residential zone to another, "substantially different" is now defined as a density change. The five-year rule will not kick in for a density change unless the proposed zoning is more dense by 50 percent. For example, if the current zoning permits 1 unit per acre, the new zoning can be subject to the five-year rule if it permits anything more than 1.5 units per acre. As before, a municipality may obtain a waiver from the county to avoid the five-year wait until the new zoning classification applies.
2. **Annexation Plans Required.** An annexation plan is required that replaces the "outline" for the extension of services and public facilities prior to the public hearing for an annexation proposal. This section contains no additional language for the content of the annexation plan to be adopted, but does require it to be consistent with the municipal growth element for any annexations that begin after October 1, 2009 (unless extended for up to two six-month periods). The Plan must be provided to the county and the State (the Maryland Department of Planning) at least 30 days prior to the hearing.

III. DEVELOPMENT SCENARIO.

A. Proposed Use.

As previously noted, the property is developed with an elementary school. The property is proposed for redevelopment with the same use.

B. Access.

The property currently has three access points on West Road and two on Adventist Drive. Upon redevelopment, the plan indicates two access points on West Road and one on Adventist Drive.

C. Configuration and Design

The annexation area is square in shape but adjoins the existing City boundary along West Road for a portion of the property frontage. The remainder of West Road cannot be annexed to avoid creating a County enclave on Queen Avenue.

VI. ZONING RECOMMENDATION.

A. Recommendation.

The specific purpose of the Planning Commission's review is to make a zoning recommendation for the annexation area that is currently zoned R-8 Residential in the County.

The adopted Salisbury Comprehensive Plan designates this area as "Medium density residential zoning is proposed for the property upon annexation to the City. The text of the R-5, R-8 and R-10 Residential Districts is included as **Attachment #5**. The District permits uses such as single-family dwellings, firehouses, parks and playgrounds, and schools of general instruction inherently.

Staff recommends that the Planning Commission forward a **Favorable** recommendation to the Mayor and City Council for this property to be zoned **R-8 Residential** upon annexation.

The Commission's recommendation should include a determination that the proposed zoning is consistent with the Wicomico County Comprehensive Plan recommendation for Medium density residential development in this area.

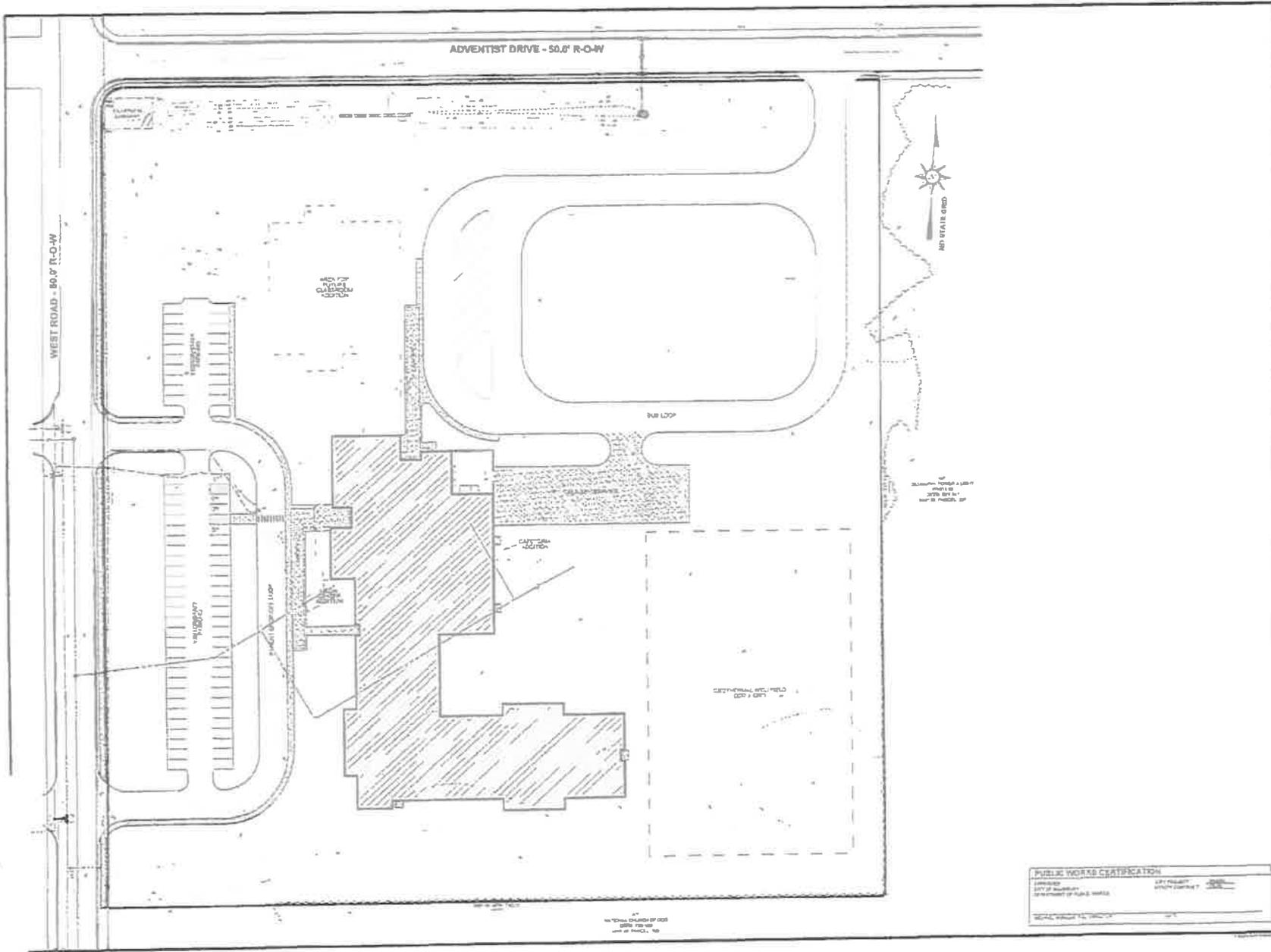
B. Estimated Development Impacts.

Development impacts usually pertain to a proposal for a residential development. This site is developed with an educational facility and proposed for redevelopment as the same. Development impacts were omitted from this report.

COORDINATOR: Gloria Smith, Planner
DATE: March 3, 2016



Attachment #1



BECKER MORGAN GROUP
 ARCHITECTURE
 ENGINEERING

Owner
 Commission 414
 Dorco, DE 19804
 PO Box 774 7946
 PO Box 774 7943

Subsidiary
 215 West 7th St. Suite 300
 Salisbury, MD 21801
 PO Box 348 21801
 Fax 410-341-5254

Website
 1407 Southall Parkway, Suite 211
 Washington, North Carolina 27683
 PO Box 211 7880
 Fax 919-241-7000
 www.beckermorgan.com

PROJECT
**WEST SALISBURY
 ELEMENTARY
 SCHOOL**
 1321 WEST ROAD
 SALISBURY, MARYLAND
 WICOMICO COUNTY

TYPE
**SITE & LAYOUT
 PLAN**

SCALE: 1" = 40'

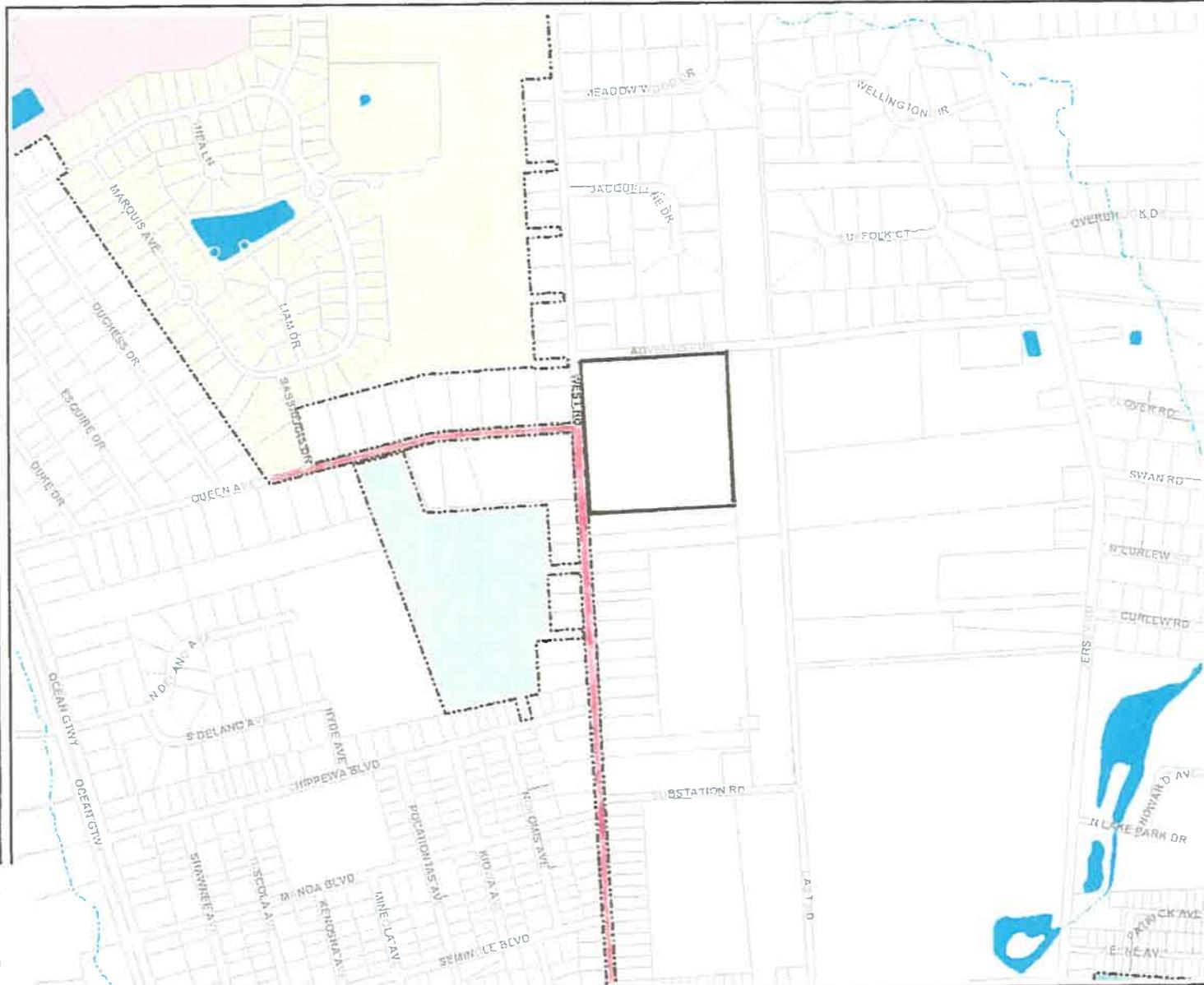
PUBLIC WORKS CERTIFICATION
 PROJECT: WEST SALISBURY ELEMENTARY SCHOOL
 CITY OF SALISBURY
 DEPARTMENT OF PUBLIC WORKS

DATE:	03/20/10
PROJECT NO.:	20101321
SCALE:	1" = 40'
DRAWN BY:	LMW (DEC. 2009) R.M.P.
CHECKED BY:	
DATE:	
PROJECT NO.:	
SCALE:	
DRAWN BY:	
CHECKED BY:	
DATE:	

C-201

CITY OF SALISBURY

Salisbury Zoning



- Paleochannel
- Wellhead Protection Area
- Streams
- Water Bodies
- Street Numbers
- Salisbury BZA Cases
- Municipal Areas**
 - CAD**
 - Delmar
 - Fruitland
 - Hebron
 - Marsden
 - Pittsford
 - Salisbury
 - Sharpstown
 - Windsor
 - Railroads**
 - Parcels**
 - Critical Area**
 - Historic Districts**
 - Dist_Name
 - Camden Historic District
 - Downtown Historic District
 - Newdown Historic District
 - Salisbury Zoning**
 - College & University
 - Conservation
 - CBD
 - LBI
 - General Commercial
 - Reg Comm
 - MURR
 - Select Commercial
 - Hospital
 - Ind
 - Ind Park
 - L Ind
 - Neighborhood Business
 - OSW
 - OSR
 - PDD
 - PRD
 - R-5
 - R-5A
 - R-8
 - R-8A
 - R-10
 - R-10A
 - Riverfront Redevelopment
 - Street Centerlines

Attachment #4

233 ft

Chapter 17.156

R-5, R-8 AND R-10 RESIDENTIAL DISTRICTS

Sections:

17.156.010	Purpose.
17.156.020	Permitted uses.
17.156.030	Uses permitted by Special Exception.
17.156.040	Uses permitted by Ordinance Permit.
17.156.050	Accessory uses and structures.
17.156.060	Development standards.

17.156.010 Purpose.

- A. The purpose of the R-5, R-8 and R-10 Residential Districts is to preserve the character of both newly planned and established single-family residential areas in order to promote and to enhance the quality of life and environmental attributes which are an essential part of the city. The uses permitted in these districts are limited primarily to single-family residential, with two-family dwellings and selected nonresidential uses which provide a service to the residents of an area or which, by their nature, require a residential environment. Apartment developments, therefore, are incompatible because they generate an undue concentration of population and increased traffic which alter the predominantly single-family residential character of these areas.
- B. The R-5, R-8 and R-10 Residential Districts encompass the majority of the residential areas of the City which either are or will be served by municipal utilities, including public water, sanitary sewer and storm drains. (Prior Code Section 150-21)

17.156.020 Permitted uses.

Permitted uses shall be as follows (As Amended 10/23/2000 by Ordinance #1786):

- A. Cultivation of land;
- B. Dwellings;
 - 1. Single-family detached.
- C. Firehouse;
- D. Park and playground, public and private, in accordance with Chapter 17.220;
- E. School of general instruction in accordance with Chapter 17.220. (Prior Code section 150-22.)

17.156.030 Uses permitted by Special Exception.

Uses permitted by Special Exception shall be as follows (As Amended 10/23/2000 by Ordinance #1786):

- A. Cemetery, on a minimum tract of ten acres;

- B. Church and other place of worship, in accordance with Chapter 17.220; **(Amended 3/13/2000 by Ordinance #1752)**
- C. Day-care facilities for the elderly and handicapped;
- D. Non-accessory offices on church owned properties contiguous to existing religious structures for use by non-profit organizations.
- E. Studio **(R-5 and R-8 Districts only - Added 12/16/02 by Ordinance #1866).**

17.156.040 Uses permitted by Ordinance Permit.

Uses permitted by Ordinance Permit by the City Council shall be as follows:

- A. Day-care center or nursery school, in accordance with Chapter 17.220;
- B. Utility substation, in accordance with Chapter 17.220. (Prior Code Section 150-24.)

17.156.050 Accessory uses and structure.

Accessory uses and structures shall be as follows:

- A. Cloister or clerical housing on the same lot with a church or other place of worship, meeting lot area and/or standards required for each individual use;
- B. Home occupation;
- C. Home office;
- D. Family day-care home;
- E. Private garages and other accessory uses normally associated with a residential use, such as but not limited to detached home workshop, swimming pool, cabana, greenhouse, private studio and boathouse, all of which shall be incidental to the use of the property as a residence;
- F. Storage of recreational vehicles and boats on residential lots, limited to two in any combination, in back of the front building setback line, where such recreation vehicles and boats are for the use and enjoyment of the resident thereon;
- G. Other accessory uses and structures clearly incidental to, customary to and associated with the permitted use. (Prior Code Section 150-25)

17.156.060 Development standards.

Development standards for the R-5, R-8 and R-10 Residential Districts shall be as follows:

- A. **Minimum Lot Requirements.** All lots hereafter established shall meet the following minimum requirements:

1. All lots except for two-family dwellings:

District	Lot Area (square feet)	Interior Lot Width (feet)	Corner Lot Width (feet)
R-5	5,000	50	65
R-8	8,000	60	75
R-10	10,000	70	85

Item #2 deleted 4/9/07 by Ordinance # 2031.

- B. Minimum yard and setback requirements shall be as follows:
 1. Front: twenty-five (25) feet;
 2. Rear: thirty (30) feet;
 3. Side: ten feet each; two required.
- C. Height Limitations.
 1. The height limitation for principal buildings and structures shall be thirty-five (35) feet.
 2. The height limitation for accessory buildings and structures shall not exceed twenty (20) feet.
- D. Parking shall be provided in accordance with Chapter 17.196.
 1. No motor vehicle, whether operable or inoperable, shall be parked in the front yard of any residence unless the same shall be positioned in a driveway or designated parking area with continuous access to a public street. [Amended 9/12/05 by Ord. #1952.]
 2. No outside storage of trucks or vans used in the conduct of business shall be permitted.
- E. No more than one principal use shall be permitted on an individual lot.
- F. Accessory Buildings and Structures.
 1. No part of any accessory building or structure shall be located closer than five feet to a rear and side property line. On a corner lot, no accessory building shall be located closer than twenty-five (25) feet to the curblines of an abutting street.
 2. No accessory building or structure shall occupy more than fifty (50) percent of the required rear yard or side yard area.
 3. Swimming pools may be constructed in the rear yard or in a side or front yard on a corner lot, no closer than twenty-five (25) feet to any curblines or property line if no curblines exist; provided, that the combined total coverage of a swimming pool and all accessory buildings or structures, including those allowed to project into yards, shall not occupy more than seventy-five (75) percent of the required rear or side yard.

- G. Signs. All signs shall be in accordance with the provisions of Chapter 17.216 for an R-5 district.
- H. Landscaping or Screening.
 - 1. Either landscaping or screening shall be provided for all uses in accordance with the provisions of Chapter 17.220.
 - 2. In addition to the requirements of Chapter 17.220, all areas shall be landscaped as defined in Section 17.04.120 and maintained in accordance with Section 17.220.080.
- I. Related Requirements.
 - 1. The provisions of Chapter 17.04, Article IV, where applicable, shall apply to all uses and structures relative to vision at intersections, height exceptions, yard exceptions, fences and walls, airport height limitations and historic or religious monuments, markers or shrines.
 - 2. Projections into yards may be allowed in accordance with the provisions of Chapter 17.04, Section 17.04.230. (Ord. 1599 section 16 (part), 1995; Prior Code Section 150-26)

EXHIBIT "A"

WEST SALISBURY SCHOOL – WEST ROAD ANNEXATION

A CERTAIN AREA OF LAND, contiguous to and binding upon the Corporate Limit of the City of Salisbury to be known as "West Salisbury School – West Road Annexation" beginning for the same at a point on the Corporate Limit, said point lying on the easterly right of way line of West Road at its intersection with the extended northerly right of way line of Queen Avenue X 1,197,980.30, Y 205,556.06; thence by and with the easterly line of the said West Road South three degrees ten minutes fifty-nine seconds East ($S3^{\circ}10' 59'' E$) four hundred eighty-six decimal four, seven (486.47) feet to a point at the southeast corner of the parcel being annexed X 1,198,007.31, Y 205,070.34; thence North eighty-six degrees forty-eight minutes fifty-eight seconds East ($N 86^{\circ}48' 58'' E$) seven hundred sixty-two decimal seven, zero (762.70) feet to a point X 1,198,768.83, Y 205,112.70; thence North three degrees eleven minutes two seconds West ($N03^{\circ}11' 02'' W$) eight hundred six decimal zero, three (806.03) feet to a point on the southerly right of way line of Adventist Drive X 1,198,724.07, Y 205,917.48; thence by and with the said line of Adventist Drive South eighty-six degrees forty-nine minutes fifty-one seconds West ($S86^{\circ}49' 51'' W$) seven hundred forty-two decimal six, nine (742.69) feet to a point at the beginning of a curve X 1,197,982.52, Y 205,876.42; thence with said curve to the left having a radius of twenty decimal zero, zero (20.00) feet and a length of thirty-one decimal four, two (31.42) feet, a chord bearing of South forty-one degrees forty-nine minutes twenty-six West ($S 41^{\circ}49' 26'' W$) a chord distance of twenty-eight decimal two, nine (28.29) feet to a point on the easterly right of way line of West Road X 1,197,963.65, Y 205,855.34; thence by and with the said line of West Road South three degrees ten minutes fifty-nine East ($S 03^{\circ}10' 59'' E$) a distance of two hundred ninety-nine decimal seven, five (299.75) feet to the point of beginning and containing 14.113 acres, being the lands of Wicomico County, Maryland, Parcel 255 shown on Tax Map 29. All bearings and coordinates are referenced to the Maryland State Coordinate System, 1927 datum.

West Road – West Salisbury Elementary School Annexation

ANNEXATION AGREEMENT

THIS AGREEMENT is made this ___ day of _____, 2016, by and between the City of Salisbury, a municipal corporation of the State of Maryland (hereinafter, “the City”), and the Board of Education of Wicomico County (hereinafter, “the Owner”) with the principal address of 2424 Northgate Drive, Salisbury, Maryland 21802.

RECITALS

WHEREAS, the Owner is the record owner of certain real property, of 14.1125 acres in size, located in Wicomico County, Maryland, (hereinafter, “the Property”), and more particularly described in Attachment “A-1” attached hereto and made a part hereof; and

WHEREAS, the Owner desires to replace the West Salisbury Elementary School with a new public elementary school and associated site improvements and obtain municipal water services in addition to the already provided sewer services;

WHEREAS, the Property is not presently within the corporate boundaries of the City and is therefore ineligible to receive certain municipal services, including the water services, that the Owner desires to obtain for the Property; and

WHEREAS, the Owner desires that the City annex the Property and the City desires to annex the Property, provided that certain conditions are satisfied; and

WHEREAS, pursuant to the authority contained in the Local Government Article, subtitle 4-400 of the Annotated Code of Maryland, the Owner and the City have agreed that the following conditions and circumstances will apply to the annexation proceedings and to the Property.

WITNESSETH:

1. WARRANTIES AND REPRESENTATIONS OF CITY:

- A. The City of Salisbury, the Salisbury-Wicomico County Planning Commission and staff will be guided by this Agreement throughout the review of development plans which may be required by City codes and regulations including stormwater management, forest conservation, utility, or entrance improvement plans to ensure that the provisions of this Agreement are specifically implemented. Any approval which may be granted to these plans by any commission, board, body, or by the Public Works Department or agent of the City shall be in substantial compliance with the terms and conditions of this Agreement.

- B. The parties understand and agree that the City's herein provided covenant of support is not intended, nor could it be construed, to legally prohibit the City from enacting such future ordinances or charter provisions or engineering standards or amendments deemed necessary to protect the public health, safety and welfare of the residents of the City, nor from applying such ordinances or charter provisions to the development of the Property, provided such application does not operate to divest prior approvals, nor interfere with the Owner's vested rights to any greater extent than the impact of such ordinances and charter resolutions upon other similarly-situated properties within the City's boundaries.

2. WARRANTIES AND REPRESENTATIONS OF THE OWNER:

- A. This Agreement constitutes the formal written consent to annexation by the Owner as required by the Local Government Article of the Maryland Code, Section 4-403 (b)(1) and (2). The Owner acknowledges that it will receive a benefit from annexation and agrees, as a bargained-for condition and circumstances applicable to the annexation, that it waives and completely relinquishes any right to withdraw its consent to annexation from the date of execution of this Agreement by all parties. The Owner further agrees that it will not petition the Annexation Resolution to referendum and that, in the event of a referendum in which it is permitted to vote, that it shall vote in favor of the Annexation Resolution.

- B. The Owner warrants and represents that it have the full authority to sign this Agreement and is in fact the sole owner of the real property encompassed in the annexation area and more particularly described in Attachment "A-1", and that there is no action pending against it involving it that would in any way affect its right and authority to execute this Agreement.

- C. The Owner warrants and represents that it has the full power and authority to sign this Agreement and Consent and is, in fact, collectively the sole owner of not less than Twenty-five Percent (25%) of the assessed valuation of the real property within the annexation area.

3. APPLICATION OF CITY CODE AND CHARTER

From and after the effective date of the Annexation Resolution implementing this Agreement, all provisions of the Charter and Code of the City shall have full force and effect within the Property except as otherwise specifically provided herein or to the extent that the Owner as a Body Corporate and Politic is exempt.

4. MUNICIPAL ZONING

Upon the effective date of the Annexation Resolution implementing this Agreement and Approval by the Mayor and City Council, the Property will be zoned R-8, Residential.

5. MUNICIPAL SERVICES

Upon the effective date of the Annexation Resolution implementing this Agreement, the City will make the Property eligible to receive all applicable municipal services to the extent that the necessary public facilities exist to provide such services. Any allocation of capacity and/or services will be made by the City according to adopted allocation plans which may be in effect at the time the Owner makes request for such capacity and/or services.

6. STANDARDS AND CRITERIA

Should any environmental, engineering, or other similar standard or criteria specifically noted in this Agreement be exceeded by any local, State, or Federal standard, criteria or regulation, which may be adopted subsequent to the execution of this Agreement, the newer stricter standard, criteria or regulation shall apply.

7. CITY BOUNDARY MARKERS

The Owner will fund and install City Boundary Markers at the boundary lines to the newly enlarged City boundaries resulting from this annexation and will provide receipt of such work completed to the City within 90 days of the completion of the West Salisbury Elementary replacement school project. The Owner agrees that failure to comply with this provision will subject the Owner to payment of a fee to the City of Salisbury made payable at end of the 90-day period in amount of \$5,000.00 or the cost for the City's surveyor to complete the work, whichever is more.

8. DEVELOPMENT CONSIDERATIONS

- A. **Costs and Fees:** The Owner agrees that it will pay the costs of annexation to the City, including but not limited to the City's costs for legal fees, planning, and other consulting fees in connection with the preparation of this Agreement and/or the necessary annexation resolution and related documents, for publication of any required notices, and for any other cost or expense reasonably related, in the City's sole judgment, to the annexation.
- B. The Owner and City agree that the Property will be developed consistent with the regulations of the zoning district classification referenced in the Annexation Resolution.
- C. **Contribution to Area Improvement:** In order that the Annexation Property is connected with and contributes to the improvement of the neighborhood sidewalk system and pedestrian accessibility generally, the Owner agrees to install pedestrian crosswalks at the intersections of West Road and Queen Avenue and West Road and the Wesley Temple Church driveway meeting the standards and specifications of the City Department of Public Works which may include necessary signage and enhanced lighting. The Owner agrees further to install sidewalks along the full length of the property's public road frontage on West Road and Adventist Drive meeting the standards and specifications of the City Department of Public Works. The Owner agrees streetlights along the full length of the property's public road frontage on West Road as part of the construction and along Adventist Drive within one (1) year after project completion meeting the standards and specifications of the City Department of Public Works.
- D. **Community / Environmental Design:** The Owner agrees to provide landscaping in accordance with its standards and practices and will make every effort to provide an aesthetically pleasing palette of planting to enhance the neighborhood which will include planting deciduous shade street trees along the full frontage of the Property with West Road as part of the construction and along Adventist Drive within one (1) year after project completion with the spacing, location, species and size to be determined in coordination with the City's Department of Public Works as agreed upon by the Owner.
- E. The Owner further agrees to achieve LEED credit points as required by the State of Maryland's High Performance School definition in COMAR, Title 23.03.01 using the rating system established by the United States Green Building Council's LEED 2009 for Schools New Construction and Major Renovations, and obtain LEED Silver Certification to meet requirements of the Maryland Green Building Council High Performance Green Building Program.
- F. The parties acknowledge and agree that the obligations set forth herein on the part of both parties pertain to the Property, unless otherwise expressly stated herein.

9. RECORD PLAT:

The Owner will provide the City with a copy of the final record plat for any development of the Property.

10. **MISCELLANEOUS:**

- A. The obligations of the parties hereto set forth herein are contingent upon the adoption of an Annexation Resolution effecting the annexation of the Property by the Mayor and City Council of the City of Salisbury and shall be void in the event the City fails to effect such annexation or such annexation is invalidated by referendum or otherwise.
- B. The use of singular verb, noun and pronoun forms in this Agreement shall also include the plural forms where such usage is appropriate; the use of the pronoun "it" shall also include, where appropriate "he" or "she" and the possessive pronoun "its" shall also include, where appropriate, "his" "hers" and "theirs."
- C. From time to time after the date of this Annexation Agreement, the parties, without charge to each other, will perform such other acts, and will execute, acknowledge and will furnish to the other such instruments, documents, materials and information which either party reasonably may request, in order to effect the consummation of the transactions provided for in this Agreement.
- D. This Agreement, which includes all exhibits, schedules and addenda hereto, each of which is incorporated in this Agreement by this reference, shall be recorded among the Land Records of Wicomico County and shall run with the land and be binding upon and inure to the benefit of the parties, their heirs, successors and assigns, and embodies and constitutes the entire understanding, representations, and statements, whether oral or written, are merged in this Annexation Agreement. The parties may renegotiate the terms hereof by mutual agreement, subsequent to the effective date of any Annexation Resolution adopted by the City pursuant hereto, provided that neither this Agreement nor any provisions hereof may be waived, modified or amended unless such modification is in writing and is signed by the party against whom the enforcement of such waiver, modification or amendment is sought, and then only to the extent set forth in such instrument.
- E. The parties hereto acknowledge that, in entering into this Agreement, neither party has been induced by, nor has relied upon, nor included as part of the basis of the bargain herein, any representations or statement, whether express or implied, made by any agent, representative or employee, which representation or statement is not expressly set forth in this Agreement.
- F. This Agreement shall be construed according to its plain meaning without giving regard to any inference or implication arising from the fact that it may have been drafted in whole or in part by or for any one of the parties hereto.
- G. This Agreement, its benefit and burden, shall be assignable, in whole or in part, by the Owner without the consent of the City or of its elected officials, employees or agents, to any purchasers or contract purchasers of the property or any party thereof. However, the Owner will not transfer or pledge as security for any debt or obligation, any interest in all or part of the Annexation Area, without first obtaining the written consent and

acknowledgement of the transferee or pledge to the Annexation Agreement and to the complete observance hereof. The Owner shall provide the City with copies of all documents of transfer or assignment, including exhibits when the documents are fully executed, regardless of recordation.

- H. The captions in any Agreement are inserted for convenience only, and in no way define, describe or limit the scope of intent of this Agreement or any of the provisions hereof.
- I. The laws of the State of Maryland shall govern the interpretation, validity, and construction of the terms and provisions of this Agreement. If any term or provision of this Agreement is declared illegal or invalid for any reason by a court of competent jurisdiction, the remaining terms and provisions of this Agreement shall, nevertheless, remain in full force and effect. Any suit to enforce the terms hereof or for damages or other remedy for the breach or alleged breach hereof shall be brought exclusively in the Courts of the State of Maryland in Wicomico County and the parties expressly consent to the jurisdiction thereof and waive any right that they might otherwise have to bring such action in or transfer or remove such action to the courts of any other jurisdiction.
- J. All notices and other communications under this Agreement shall be in writing and shall be sent either by first class mail, postage prepaid, or by personal delivery, addressed to the parties as provided below. Notice shall be deemed given on the date delivered or attempted to be delivered during normal working hours on business days.

IF TO THE CITY: Thomas Stevenson, City Administrator
125 North Division Street
Salisbury, Maryland 21801

WITH A COPY TO: S. Mark Tilghman, City Attorney
1185 Broad Street, P.O. Box 910
Salisbury, Maryland 21803

IF TO THE OWNER: Donald Fitzgerald, President
Board of Education of Wicomico County
2424 Northgate Drive
Salisbury, Maryland 21802

WITH A COPY TO: Leisl Ashby, Director of Facility Services
Board of Education of Wicomico County
2424 Northgate Drive
Salisbury, Maryland 21802

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

WITNESS:

THE CITY OF SALSIBURY, MARYLAND

By: _____

WITNESS/ATTEST:

OWNER:

By: _____

APPROVED AS TO FORM:

S. Mark Tilghman, City Attorney

STATE OF MARYLAND

COUNTY OF _____, to wit:

I HEREBY CERTIFY, that on this _____ day of _____, _____, before me, a Notary Public in and for the State aforesaid, personally appeared _____, who has been satisfactorily proven to be the person whose name is subscribed to the within instrument, who acknowledged himself to be a duly elected official of the City of Salisbury, a municipal corporation of the State of Maryland, and that said official, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the municipal corporation as such official.

WITNESS my hand and notarial seal.

_____(SEAL)
Notary Public

My Commission Expires: _____

I HEREBY CERTIFY, that on this _____ day of _____, _____, before me, a Notary Public in and for the State aforesaid, personally appeared _____, who has been satisfactorily proven to be the person whose name is subscribed to the within instrument, who acknowledged himself to be Member of Tri-County Council for the Lower Eastern Shore of Maryland., and that, being duly authorized so to do, he executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation as a Member.

WITNESS my hand and notarial seal.

_____(SEAL)
Notary Public

My Commission Expires: _____

I HEREBY CERTIFY that the foregoing instrument was prepared by or under the supervision of an attorney duly admitted to practice before the Court of Appeals of Maryland.

_____, City Attorney

Attachment 1
(Annexation Survey plat to be inserted)

West Salisbury Elementary Annexation Team Meeting Jan. 28th

Gloria: Annexation limited to just school property; cannot include Adventist or West road...
West Road

Gloria/Keith: Currently R-8 county; goes to R-8 City
Exempt from Zoning

Fire/Police: No concerns about concept development plan

Bill: Where is staff parking? Limited to front along West road

Public Works: Existing Sewer
Water trunk line existing on West Road

Gloria: Doesn't appear to be existing sidewalks

Brian: Needs to have sidewalks if not existing

Brian: Will confirm street lights exist