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City of Cold Spring

May 28, 2008

RECEIVED AND FILED
DATE May 30, 2008

TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Kandie Adkinson

Kandie Adkinson, Land Office Division
for Trey Grayson, Secretary of State
Suite 152, State Capitol
700 Capital Avenue
Frankfort, KY 40601-3493

Dear Ms. Adkinson:

Enclosed is a plat / survey map of land which was annexed by the City of Cold Spring along with a certified copy of Ordinance 06-914. This plat / survey map was prepared by a professional land surveyor and includes the surveyor's certification and statement.

Should you need any further information on this annexation, please contact me at 859-441-9604.

Sincerely,


Rita Seger
City Clerk

enclosures

CERTIFICATION

Comes now Rita Seger, the duly appointed Clerk for the City of Cold Spring, Campbell County, Kentucky and certifies that the attached is a true and accurate copy of Ordinance 06-914, an Ordinance of the City of Cold Spring annexing certain areas of unincorporated territories within the County of Campbell.

Rita Seger
Rita Seger, Clerk

Subscribed to and sworn before me a notary public, by Rita Seger, Clerk, City of Cold Spring, Kentucky on this the 28th day of May, 2008.

David C Robinson
Notary Public
State at Large

My Commission Expires: 10-27-2010

RECEIVED AND FILED
DATE May 30, 2008

TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Randie Adlin

**COMMONWEALTH OF KENTUCKY
CITY OF COLD SPRING
ORDINANCE NO. 06-914**

**AN ORDINANCE ANNEXING CERTAIN UNINCORPORATED
TERRITORIES WITHIN THE COUNTY OF CAMPBELL, KENTUCKY
AND CONTIGUOUS TO THE PRESENT BOUNDARY LINES OF THE
CITY OF COLD SPRING, KENTUCKY, A CITY OF THE FIFTH CLASS
AND DEFINING BY METES AND BOUNDS THE TERRITORY ANNEXED**

WHEREAS, Kentucky Revised Statute 81A.410 authorizes and delegates city legislative bodies the authority to annex territories; and

WHEREAS, Kentucky Revised Statute 81A.412 provides the manner in which said annexation should be accomplished through the consent of the property owner; and

WHEREAS, the property owner, by way of an annexation and development plan agreement, has provided written consent to the annexation; and

WHEREAS, the property herein described is adjacent to and contiguous to the city's boundaries; and

WHEREAS, by reason of population density, commercial, industrial, institutional or governmental use of land, or subdivision of land, said property is urban in character or suitable for urban purposes without unreasonable delay; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF COLD SPRING, KENTUCKY:

SECTION I

That the City of Cold Spring does hereby and herewith annex to its present boundaries and include the same within the territorial limits of the City of Cold Spring, Campbell County, Kentucky, the following described unincorporated land and area, located in the County of Campbell, Commonwealth of Kentucky, to-wit:

Please see attached legal description which is attached hereto and incorporated by reference herein.

SECTION II

The City Council of the City of Cold Spring finds that the aforementioned territory is by reason of population density, commercial, industrial, institutional or governmental use of land, or subdivision of land, is urban in character or suitable for development for urban purposes without unreasonable delay.

SECTION III

The City of Cold Spring Planning Commission having considered the appropriate zoning for the aforementioned territory at a duly noticed and called public hearing, and said Planning Commission having recommended to the City Council of Cold Spring that said territory be zoned SDA (Special Development Area), the attached map of the territory is incorporated by reference herein and made a part hereof.

SECTION IV

That any section, or part of any section, or any provision of this Ordinance which is declared invalid by a Court of appropriate jurisdiction, for any reason, such declaration shall not invalidate, or adversely affect, the remainder of this Ordinance.

SECTION V

That this ordinance shall take effect and be in full force from and after its passage, publication and recording, according to law.

ADOPTED this 25th day of September, 2006.

FIRST READING: June 26, 2006

Vote 6, Yes; 0 No

SECOND READING: September 25, 2006

Vote 6, Yes; 0 No

**CITY OF COLD SPRING
CAMPBELL COUNTY, KENTUCKY**

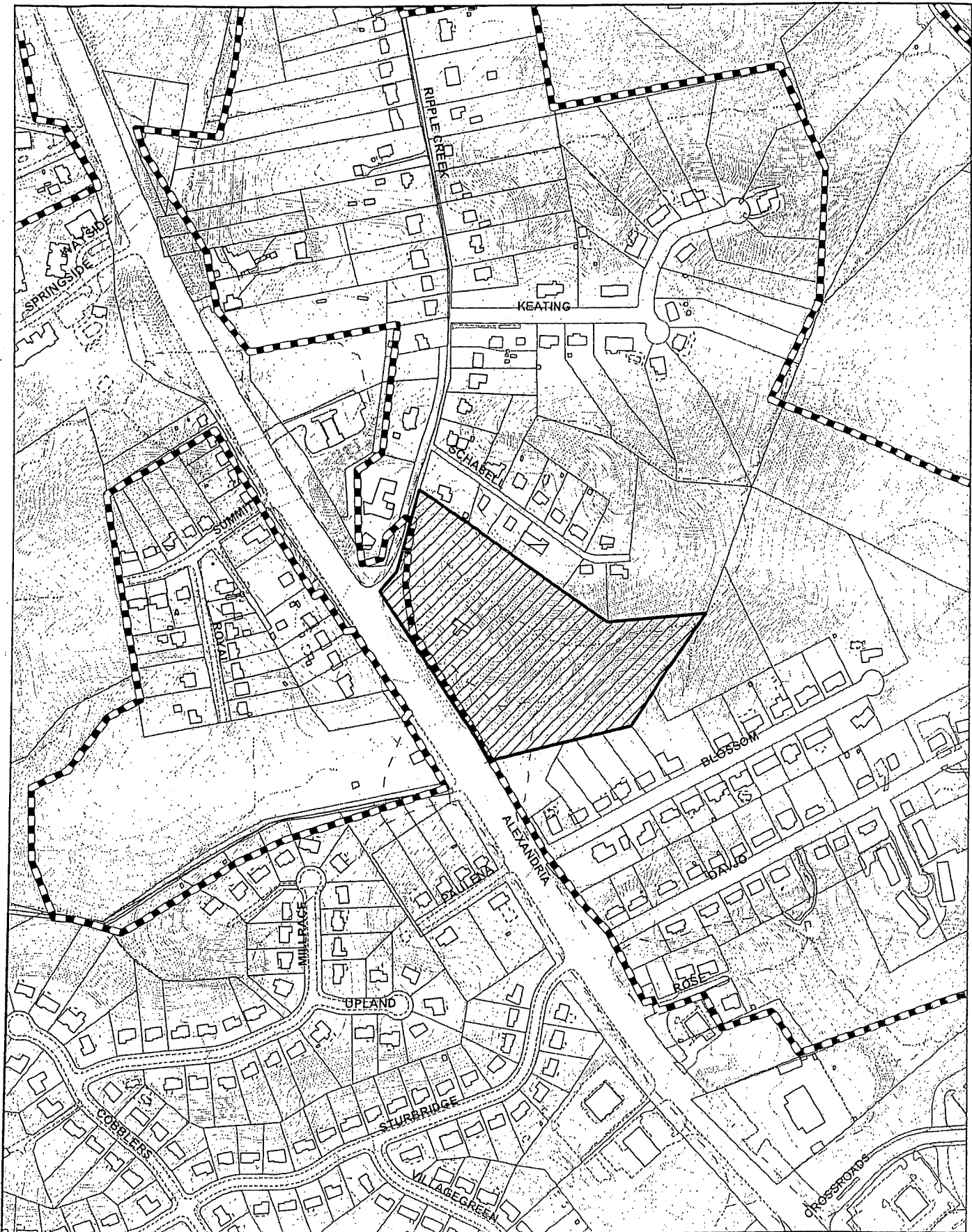


MARK STOEBER - Mayor

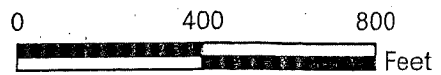
ATTEST:



RITA SEGER, Assistant City Clerk



444-44-19-32
999-99-19-323.00 (South)
Ordinance Number 06-914



ANNEXATION AND DEVELOPMENT PLAN AGREEMENT

This Annexation and Development Plan Agreement is between the City of Cold Spring, a city of the fifth class in Campbell County, Kentucky, its successors and assigns, all of which shall hereinafter be identified and referred to collectively as the "CITY"; and, a real estate investor, their successors and assigns, all of whom shall hereinafter be identified and referred to collectively as the "DEVELOPERS".

Whereas, Developers are, or intend to be, the owners of various parcels of real estate both inside the City, PIDN 999-99-19-503.00m 11.47 acres (the NORTH and/or NORTHERN) property subject to this Agreement, as well as in unincorporated Campbell County, PIDN 999-19-19-323.00, 9.13 acres, (the SOUTH and/or SOUTHERN) property subject to this Agreement. Both properties are located on U.S. 27 and Ripple Creek Road, Campbell County, Kentucky, both properties are more particularly described in the metes and bounds description attached hereto as Exhibit "A" (NORTH) and Exhibit "B" (SOUTH), collectively the "Properties." The properties subject to this agreement lies both within the City of Cold Spring and unincorporated Campbell County.

Whereas, the City desirous of annexing the Southern parcel of property owned by the Developers.

Whereas, the owners of the Properties have consented to the annexation of the Southern parcel of property and potential zoning of the property.

Whereas, the Developers and Owners have publicly stated their intention to challenge any and all nonconsensual annexation ordinances by the City of Cold Spring pursuant to Kentucky Revised Statute 81A.420.

Whereas, the City is still desirous of annexing the aforementioned property and the Developers are agreeable to a consensual annexation, pursuant to Kentucky Revised Statute 81A.412, if certain conditions and considerations of this Agreement are met, for both properties subject to this Agreement.

Whereas, the City is entering into this Agreement in order to effectuate the annexation of the property set forth in this agreement.

Whereas, the Cold Spring Planning and Zoning Commission has received and reviewed an application from the City to review and make recommendations for the appropriate comprehensive plan and zoning designation for the Southern parcel of property subject to this Agreement. The Cold Spring Planning and Zoning Commissioner has recommended that upon Annexation the Comprehensive Plan Designation be Special Development Area.

Whereas, the Cold Spring Planning and Zoning Commission in reviewing the City's application further advised that zoning designation for the property in question should be SDA (Special Development Area) to insure development of the site in a consistent manner.

Whereas, the Developers and Owners are agreeable to annexation and the zoning designation of SDA, so long as certain considerations and conditions of this Agreement are met, including a condition of the parcel being zoned SDA, with the adoption of a Southern properties, Stage I development plan, consistent with that plan attached hereto and marked as Exhibit "C," outlining the permitted uses and other Stage I Development Plan Requirements, as set forth in the attached Exhibit "C." Furthermore, in further consideration of this Agreement, the condition that the Northern parcel, have the adoption

of the attached Stage 1 Development Plan, consistent with that plan attached hereto and marked as Exhibit "D," outlining the permitted uses (including the allowance of a gas station more particularly described herein and a drive thru more particularly described herein) and other Stage I Development Plan Requirements, as set forth in the attached Exhibit "D."

Whereas, the Developers are agreeable and provide execution of this Agreement which shall serve as the Developers consent/consideration to annexation, per KRS 81A.412, so long as the Zoning Designation of SDA, as recommended by the Cold Spring Planning and Zoning Commission, as well as the adoption of both the NORTH and SOUTH properties' Stage I Development Plans, consistent with the plans attached hereto as Exhibit "C" and "D," which are adopted and made a part of this Annexation and Development Plan Agreement, which shall govern the development of both sites in question.

Whereas, the City, pursuant to its legislative powers has determined that expanding the cities boundaries, increasing the property tax base of the city, providing needed infrastructure improvements to residents of the city, authorize the execution of the Annexation and Development Plan Agreement, providing certain considerations and conditions for the development of the site in question, including the transferring and/or extinguishing of certain rights of the Developers for a portion of the Northern sites property which is currently zone R-3.

Whereas, in further support of this Annexation and Development Plan Agreement, the City makes a finding that the economic, physical, and social nature of the property, as well as the ability to provide basic infrastructure to affected landowners, has

substantially altered the character of the area in question, necessitating execution of this Annexation and Development Plan Agreement to insure certain rights and responsibilities of each of the parties, as well as the residential property owners are provided for.

Furthermore, as it pertains to the Northern property, the City makes a finding that recent annexations and/or other development within the City has increased the amount of R-3 designated property, which has placed and/or will place an economic strain on the City, through providing police, fire and/or other protective services. This Agreement transfers certain rights on the Northern property, in exchange for the annexation of the Southern property, as well as the allowance of the uses contained herein.

Whereas, the City has simultaneously by ordinance number 06-914, annexed the South property in question and designated the zoning of the property as SDA.

Now, Therefore, the Developers and the City hereby agree to the following Annexation and Development Plan Agreement for the NORTH 11.47 acre parcel and the SOUTH 9.13 acre parcel, as a condition of the aforesaid zoning map designation and approval of both Stage I Development plans as proposed by the Developers:

Section 1.0-Definition-Final Development Plan

For purposes of the Annexation and Development Plan Agreement the parties hereto acknowledge and agree that the words "Final Development Plan" shall mean both Preliminary Development/Stage I Plan, as approved by the parties consistent with the plans attached hereto and marked as Exhibits "C" and "D" and as said Exhibits are subsequently supplemented pursuant to the provisions of this Agreement.

Section 2.0-Development, Improvement and Use of the North and South Parcels

NORTH Property

The Development, Improvement and use of the NORTH parcel's 11.47 acres, but only the current part of the North parcel property zone NSC (Neighborhood Shopping Center Zone) shall only contain permitted, accessory and conditional uses as set forth in Section 10.11(B)(C) and (D) of the Cold Spring Zoning Ordinance. The R-3 part of the North parcel shall be subject to the following:

- (1) The City shall decide before February 28, 2007, whether to accept as a donation from the Developers the portion of the North parcel zoned R-3, at such a time the City and Developer shall cause the property to be transferred to the City. In the event that the City elects not to receive the property as a donation, the Developers agree that the property while zoned R-3, shall have a deed restriction placed on the property only allowing use of the property as owner occupied dwellings, in the form of what is commonly referred to as a Patio and/or Town home type of property. Specifically, what is to be restricted by deed, plat and/or other type of instrument that runs with the land, is property in which the owner rents and does not otherwise occupy the property and a type of building resembling a stackable apartment and/or condo type of housing. The parties agree that regardless of the action of the City, the parcel may remain green space for the foreseeable future. This Agreement has been authorized by the City, and the election of the R-3

part of the parcel shall be documented and ratified by an Addendum to this Agreement.

(2) On the part of the North parcel zoned NSC in addition to the permitted, accessory and/or conditional uses above the Developer shall be permitted to construct on one (1) of the lots on the attached Stage 1 Development Plan a building with a drive thru and on another one (1) of the lots a "Hilton Head" style gas station, consistent with photographs and other renderings presented to the City. The North parcel Development in question consists of six (6) lots in total, of which two (2), at the Developers discretion, may contain the drive thru and gas station subject to the terms of this Agreement. The remaining four (4) lots uses shall be governed by the permitted, accessory and/or conditional uses set forth above in the NSC zone.

(3) Furthermore, the development, improvement and use of the North properties 11.47 acres shall be limited to that described in the Development Plan, (Exhibit "D" of this Agreement), and shall be in conformity therewith, and in conformity with this Agreement and all laws, rules and regulations of the United States of America, Commonwealth of Kentucky, County of Campbell, the City and the Cold Spring Planning and Zoning Commission, including, without limitation, all zoning and property maintenance ordinances of the City, the subdivision regulations of the Cold Spring Planning and Zoning Commission, the Kentucky Building Code and the Kentucky Standards

of Safety, with the provisions of this Agreement prevailing, to the extent allowed by law, over any other law, rule or regulation in conflict therewith.

SOUTH Property

The Development, Improvement and use of the SOUTH Parcel's 9.13 acres shall only contain permitted and accessory uses as set forth in Section 10.13(E) and (F) of the Cold Spring Zoning Ordinance. Furthermore, the development, improvement and use of the 9.13 acres shall be limited to that described in the Development Plan, (Exhibit "C" of this Agreement), and shall be in conformity therewith, and in conformity with this Agreement and all laws, rules and regulations of the United States of America, Commonwealth of Kentucky, County of Campbell, the City and the Cold Spring Planning and Zoning Commission, including, without limitation, all zoning and property maintenance ordinances of the City, the subdivision regulations of the Cold Spring Planning and

Section 3.0-Consensual Annexation

The Developer, by execution of this Agreement and the Owners by execution of a separate consent, provides written notice and consent to the Annexation of the South property's 9.13-acre parcel pursuant to KRS 81A.412. Such consent is contingent and dependent upon final annexation and zoning approval under the terms and conditions set forth herein.

Section 4.0-Remediation of Violations of This Agreement

In the event of any continued condition or occurrence in violation of any of the provisions of this Agreement, by either act or omission, for more than sixty (60) calendar

days after a written notice thereof is mailed by the City to the owner(s) of the parcel of real estate upon which such condition or occurrence is located, by Certified Mail, Return Receipt Requested, the City may, in addition to all other legal remedies at law or in equity, enter upon such parcel of real estate and cause the remediation of such condition or occurrence; and thereupon, the owner(s) of the parcel of real estate upon which such remediation has occurred shall pay and reimburse the City for the reasonable cost and expense of the City in regard to such remediation. If any litigation arises under this Agreement between the parties, the prevailing party (which shall mean the party which obtains substantially all of the relief sought by such party) shall be entitled to recover, as a part of its judgment, reasonable attorney's fees, court costs and expert witness fees.

Section 5.0-Recordation of Agreement

This Agreement shall be recorded in the office of the Campbell County Clerk and shall run with the land.

Section 6.0-Severability

Any section or provision of this Agreement which is declared invalid by a court of competent jurisdiction for any reason, such declaration shall not invalidate, or adversely affect, the remainder of this Agreement.

Section 7.0-Entire Agreement

This Annexation and Development Plan Agreement, as well as the accompanying Exhibits, constitute the complete and entire Agreement of the parties.

In Witness Whereof, this Annexation and Development Plan Agreement has been signed on the dates indicated by Phil Sousa, Member, SRM Investments, LLC, Phil

Sousa, Member, Oxford Development, LLC and Mark Stoeber, as the Mayor of the City of Cold Spring, pursuant to the City Council's authorization thereof.

SRM Investments, LLC

Phil Sousa - member
Phil Sousa, Member
J.R. Richardson, member

Oxford Development, LLC

Phil Sousa - member
Phil Sousa, Member
J.R. Richardson, member

City of Cold Spring

Mark Stoeber
Mark Stoeber, Mayor

COMMONWEALTH OF KENTUCKY]
COUNTY OF CAMPBELL] Sect.

Phil Subscribed and Sworn to before me, a Notary Public, by Phil Sousa, on this
day of January 2007.

[Signature]
Notary Public
State at Large
My Commission Expires: *10/8/07*

COMMONWEALTH OF KENTUCKY]
COUNTY OF CAMPBELL] Sect.

this *Phil* day of January 2007. Subscribed and Sworn to before me, a Notary Public, by Mark Stoeber, Mayor, on

[Signature]
Notary Public
State at Large
My Commission Expires: *10/8/07*

DESCRIPTION OF SURVEY

A certain tract of land situated in Cold Spring, Kentucky, and lying on the east side of US 27 and being the property conveyed to SRM Investments LLC in Deed Book 269, Page 268, and being of record in the Campbell County Court Clerk's office in Alexandria, Kentucky, and being more particularly described as follows:

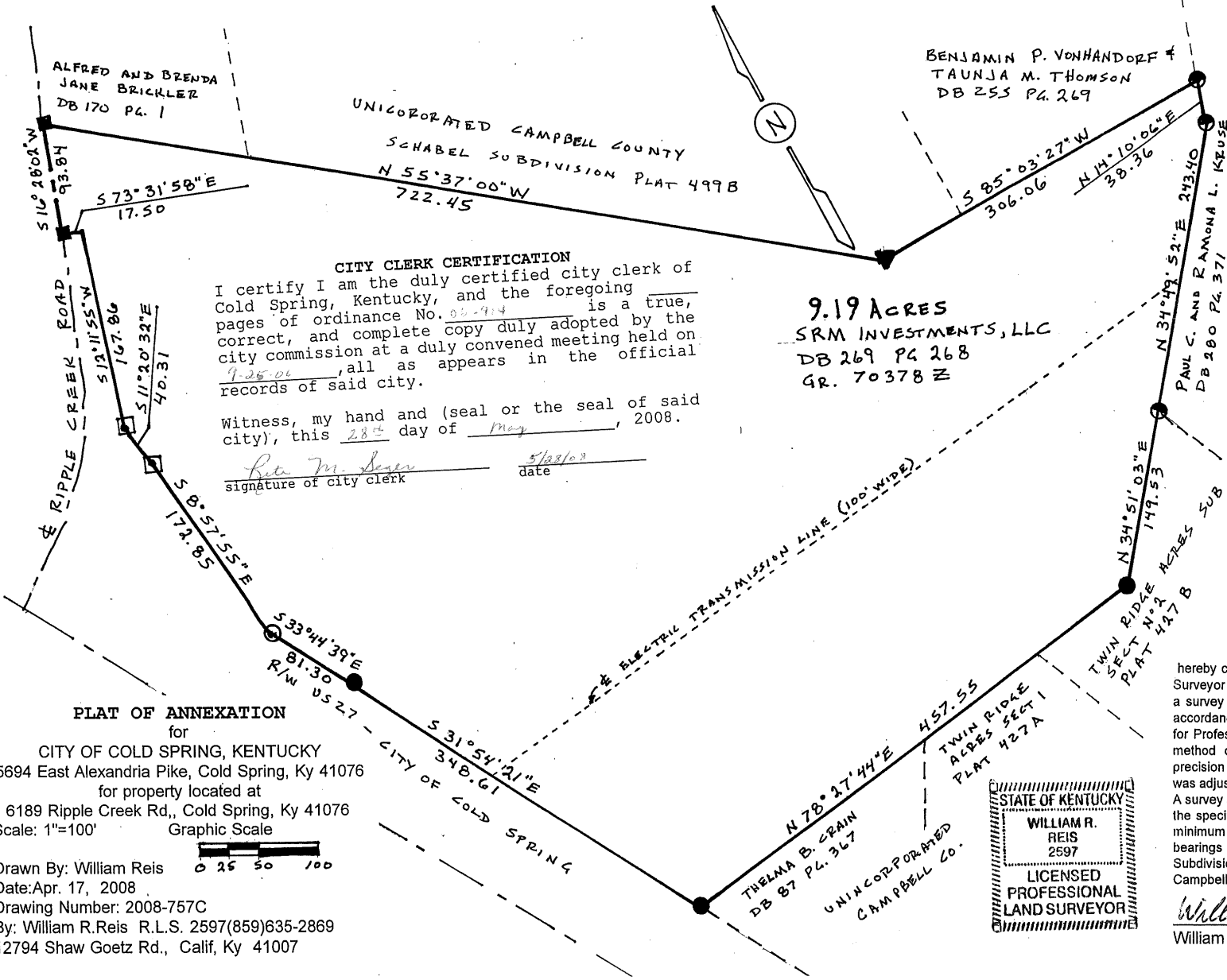
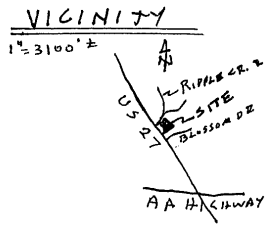
All bearings stated herein are based on the bearing of record of the southwesterly line of Schabell Subdivision (N 55 37 W) as recorded on Plat 499 B in the Campbell County Court Clerk's Office in Alexandria, Kentucky.

Beginning at an existing MAG nail in the centerline of Ripple Creek Road, said nail being a corner to Alfred and Brenda Jane Brickler (DB 170, Pg 1); thence along said centerline S 16 28 02 W, 93.84 feet to an existing MAG nail; thence leaving said centerline S 73 31 58 E, 17.50 feet to a point in a concrete sidewalk; thence along the R/W of Ripple Creek Road and US 27 S 12 11 55 W, 167.86 feet to a concrete Ky DOT R/W marker; thence S 11 20 32 E, 40.31 feet to a concrete Ky DOT R/W marker; thence S 8 57 55 E, 172.85 feet to a 1/2" pin, disturbed; thence S 33 44 39 E, 81.30 feet to a 1/2" pin with a plastic cap stamped 2709 3479 3612; thence S 31 54 21 E, 348.61 feet to a 1/2" pin with a plastic cap stamped 2709 3479 3612, said pin being a corner to Thelma Crain (DB 87, Pg 367); thence along Crain and hence section 1 and 2 of Twin Ridge Acres Subdivision (Plat 427 A and 427 B) N 78 27 44 E, 457.55 feet to a 1/2" pin with a plastic cap stamped 2709 3479 3612; thence N 34 51 03 E, 149.53 feet to a 1/2" pin with a plastic cap stamped JGK 3663; thence along the westerly line of Paul C. and Ramona L. Kruse (DB 280, Pg 371) N 34 49 52 E, 243.40 feet to a 1/2" pin with a plastic cap stamped JGK 3663; thence N 14 10 06 E, 38.36 feet to a 1/2" pin with a plastic cap stamped JGK 3663; thence along the southerly line of Benjamin P. Vonhandorf and Taunja M. Thomson (DB 255, Pg 269) and hence the southerly lines of Schabell Subdivision (Plat 499 B) S 85 03 27 W, 306.06 feet to a 5/8" pin with a plastic cap stamped 1370; thence along Schabell Subdivision (Plat 499 B) and hence Alfred and Brenda Jane Brickler N 55 37 00 W, 722.45 feet to the point of beginning and containing 9.19 acres of land more or less and being subject to easements of record.

This description prepared from a physical survey conducted by William R. Reis P.L.S. 2597 on April 17, 2008.

William R. Reis 5-14-08





CITY CLERK CERTIFICATION
 I certify I am the duly certified city clerk of Cold Spring, Kentucky, and the foregoing pages of ordinance No. 92-914 is a true, correct, and complete copy duly adopted by the city commission at a duly convened meeting held on 9-25-01, all as appears in the official records of said city.

Witness, my hand and (seal or the seal of said city), this 28th day of May, 2008.
Rita M. Logan
 signature of city clerk 5/28/08
 date

9.19 ACRES
SRM INVESTMENTS, LLC
DB 269 PG 268
GR. 70378 Z

- = An existing MAG nail
- = A conc. Ky DOT R/W marker
- = A 1/2" in disturbed with no cap
- = A 1/2" pin with a cap stamped 2709 3479 3612
- ⊙ = A 1/2" pin with a cap stamped JGK 3663
- ▲ = A 5/8" pin with a cap stamped 1370

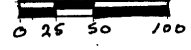
SURVEYORS CERTIFICATE

hereby certify that I am a duly qualified and Licensed Kentucky Surveyor in accordance with KRS 322 and that this plat depicts a survey performed by me, or under my direct supervision, in accordance with the Code of Professional Practice and Conduct for Professional Engineers and Professional Surveyors, by the method of random traverse with sideshots. The unadjusted precision ratio of the random traverse was 1:10,000. This survey was adjusted for closure. The survey as shown hereon is a Class A survey and the accuracy and precision of said survey meets all the specifications of this class. This plat meets or exceeds the minimum requirements of 201 KAR 18.150. The basis of the bearings on this plat is the bearing of record of Schabell Subdivision (N 55 37 W) as recorded on Plat 499B in the Campbell County Court Clerk's Office in Alexandria, Kentucky.



William R. Reis R.L.S. 2597 5-14-08
 William R. Reis date

PLAT OF ANNEXATION
 for
CITY OF COLD SPRING, KENTUCKY
 5694 East Alexandria Pike, Cold Spring, Ky 41076
 for property located at
 6189 Ripple Creek Rd., Cold Spring, Ky 41076
 Scale: 1"=100' Graphic Scale



Drawn By: William Reis
 Date: Apr. 17, 2008
 Drawing Number: 2008-757C
 By: William R. Reis R.L.S. 2597(859)635-2869
 12794 Shaw Goetz Rd., Calif, Ky 41007