

**ORDINANCE NO. 3847**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO PROVIDE FOR THE CLOSURE OF A PORTION OF A STREET KNOWN AS LOCUST ALLEY, RUNNING FROM THE NORTHWEST CORNER OF A SIDEWALK RUNNING PARALLEL WITH THE WEST SIDE OF ELM STREET 100 +/- FEET ALONG THE EASTERN SIDE OF THE PORTION OF LOCUST ALLEY BEING CLOSED, THEN RUNNING EAST ON THE SOUTHERN SIDE OF THE PORTION OF THE ALLEY BEING CLOSED 150 +/- FEET, THE PORTION OF THE ALLEY BEING CLOSED LYING BETWEEN THE LANDS OWNED BY ARC CUMBERLAND, LLC (AS DESCRIBED IN THE DEED RECORDED AMONG THE LAND RECORDS OF ALLEGANY COUNTY, MARYLAND IN DEED LIBER 656, FOLIO 789) AND FIRST PEOPLES COMMUNITY FEDERAL UNION (AS DESCRIBED IN THE DEEDS RECORDED AMONG THE LAND RECORDS OF ALLEGANY COUNTY, MARYLAND BOOK 2348, PAGE 401, BOOK 2329, PAGE 252, BOOK 2353, PAGE 67, BOOK 2332, PAGE 97 AND BOOK 2332, PAGE 93) THE PORTION OF SAID ALLEY BEING CLOSED BEING LOCATED IN THE CITY OF CUMBERLAND, MARYLAND."

**WHEREAS**, the Mayor and City Council of Cumberland received a petition from First Peoples Community Federal Credit Union, requesting the closure of the portion of Locust Alley generally described in the titling of this Ordinance;

**WHEREAS**, the City Clerk served a personal notice in writing upon each property owner to be affected by the passage of the proposed Ordinance more than ten (10) days before 4/16/19 ;

**WHEREAS**, in the opinion of the Mayor and City Council of Cumberland, the public welfare and convenience require that the aforesaid portion of the aforesaid street be closed; and

**WHEREAS**, in that ARC Cumberland, LLC and First Peoples Community Federal Credit Union own the parcels of property adjacent to each side of the portion of the alley being closed by this Ordinance, the portion of the alley being closed will be divided in half along its centerline, with ARC Cumberland, LLC and First Peoples Community Federal Credit Union each receiving the half of the alley which is closest to their respective lands.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND AS FOLLOWS:**

**SECTION 1:** The portion of Locust Alley described in the metes and bounds description attached hereto as Exhibit A and shown on the plat attached hereto as Exhibit B shall be closed and conveyed from the City to ARC Cumberland, LLC as provided for hereinafter, and the portion of Locust Alley described in the metes and bounds

**APR 16 2019**

description attached hereto as Exhibit C and the plat attached hereto as Exhibit D shall be closed and conveyed to First Peoples Community Federal Credit Union as provided for hereinafter. These conveyances are subject to the easements, reservations and restrictions set forth in the Exhibit E attached hereto, which easements, reservations and restrictions shall be incorporated into the deeds effecting the conveyances described in this paragraph.

**SECTION 2:** The said Mayor and City Council of Cumberland shall ascertain whether any and what amount in value of damage shall be caused by the aforesaid closure for which the owners or possessors of any property located along Locust Alley, or portions thereof, should be compensated, and shall assess and levy generally on the property of the persons benefitted by the closure of the street the whole or any part of the expense which shall be incurred in closing the same.

**SECTION 3:** The City Administrator or his designee shall, within fifteen (15) days of the passage of this Ordinance, submit a report to the City Clerk setting forth his findings regarding what amount of damages, if any, shall have been caused by the aforesaid closure of the portion of Locust Alley described herein, and the names of the owners or possessors of such property along which said streets now pass, and the amount of damages for which they shall be compensated or benefits for which they shall be assessed, and whether said damages arising from the closure shall be assessed generally on the whole assessable property within the City of Cumberland or specially on the property of the person benefitted by the closure; and, in the event of any of said damages being assessed and levied in whole or in part on any property of the persons benefitted, the names of the owners of the property specially benefitted, with a description of said property by reference to the Land Records of Allegany County, and the amount so levied and assessed. The Mayor and City Council shall consider the matter of the City Administrator's report and shall make determinations regarding the subject matter of the report at a meeting held no sooner than fifteen (15) days after the date of the passage of this Ordinance.

**SECTION 4:** Any person feeling aggrieved or injured by the decision of said Mayor and City Council of Cumberland regarding the subject matter of the aforereferenced report shall have the right of an appeal to the Circuit Court at a trial by jury, as provided in Section 128 of the Charter of the City of Cumberland (1991 Edition), upon filing a written notice of appeal with the City Clerk within thirty (30) days after the Mayor and City Council of Cumberland shall have made their return.

**SECTION 5:** The benefits assessed by said Mayor and City Council of Cumberland shall be liens upon the property of the persons benefitted to the extent of such assessment, and shall be payable within sixty (60) days after the date of the meeting at which the Mayor and City Council of Cumberland makes its determinations regarding the subject matter set forth in the City Administrator's report, and the collection of the same shall be enforced by *scire facias* in the same manner as paving liens are collected by the Mayor and City Council; and a written record of the said Mayor and City Council's determinations shall be filed for record and reported in the Mechanics' Lien

Record in the Clerk's Office in the Circuit Court for Allegany County, and the assessment therein shall be liens upon the properties respectively assessed from the time of such recording, such recording to be effected no sooner than the expiration of the aforesaid sixty (60) day period.

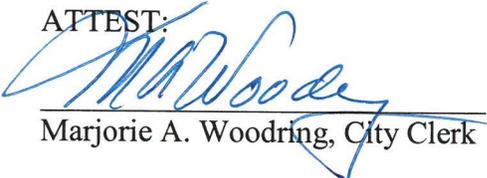
**SECTION 6:** Upon the collection of all benefits assessed and the payment of the damages ascertained, or the waiver of this provision by the parties interested, if applicable, the said portions of Locust particularly described in Section 1 hereof shall be closed and the Mayor shall be empowered to execute the deeds effecting the conveyances which are described in Section 1 hereof.

**SECTION 7:** This Ordinance shall take effect from the date of its passage.

Passed, the 16 day of April, 2019.

  
Raymond M. Morriss, Mayor

ATTEST:

  
Marjorie A. Woodring, City Clerk

**1st reading: April 2, 2019**  
**2nd reading: April 16, 2019**  
**3rd reading: April 16, 2019**  
**Passed: 5-0**

**EXHIBIT A**

**LEGAL DESCRIPTION  
MAYOR AND CITY COUNCIL OF CUMBERLAND  
TO  
ARC CUMBERLAND, LLC**

ALL that piece or parcel of land situated in the City of Cumberland, Election District No. 04-002, Allegany County, Maryland, and being more particularly described as follows [Maryland State Grid NAD83 Meridian courses and horizontal measurements being used thru out] to wit:

BEGINNING for the same at a 5/8" iron pin with cap set on the westerly right of way margin of Elm Street, said iron pin being the end of the first line of Parcel 1, of a deed dated January 30, 2004, from ARC Cumberland, LLC to the Mayor and City Council of Cumberland, recorded in deed Liber 727, Folio 624, among the Land Records of Allegany County, Maryland, thence leaving Elm Street and running with the entire second, entire third, and part of the fourth line thereof;

1. North 65 degrees 40 minutes 03 seconds West 113.14 feet to a 5/8" iron pin with cap set, thence;
2. North 08 degrees 16 minutes 28 seconds West 12.48 feet to a 5/8" iron pin with cap set, thence;
3. North 24 degrees 21 minutes 37 seconds East 169.50 feet to a 5/8" iron pin with cap set on the southerly right of way margin of Spring Street, thence with Spring Street;
4. South 65 degrees 38 minutes 29 seconds East 10.00 feet to a point, thence leaving Spring Street;
5. South 24 degrees 21 minutes 37 seconds West 165.03 feet to a point, thence;
6. South 65 degrees 40 minutes 03 seconds East 109.82 feet to a point on the westerly right of way margin of Elm Street, thence with Elm Street;
7. South 24 degrees 09 minutes 46 seconds West 14.98 feet to the place of beginning, containing 0.078 acres, more or less, and as shown on a Plan of Survey plat prepared for ARC Cumberland, LLC, dated February 11, 2019, attached hereto and intended to be made a part hereof.

# EXHIBIT B

**bba**

Surveyors | Engineers | Planners

Bennett Brewer & Associates, LLC  
23 East Main Street, Suite 200  
Frostburg, MD 21532  
Phone 301-687-0494

## PLAN OF SURVEY

made for  
**ARC CUMBERLAND, LLC.**

701 - 713 ELM STREET, ELECTION DISTRICT NO. 04-002  
CITY OF CUMBERLAND, ALLEGANY COUNTY

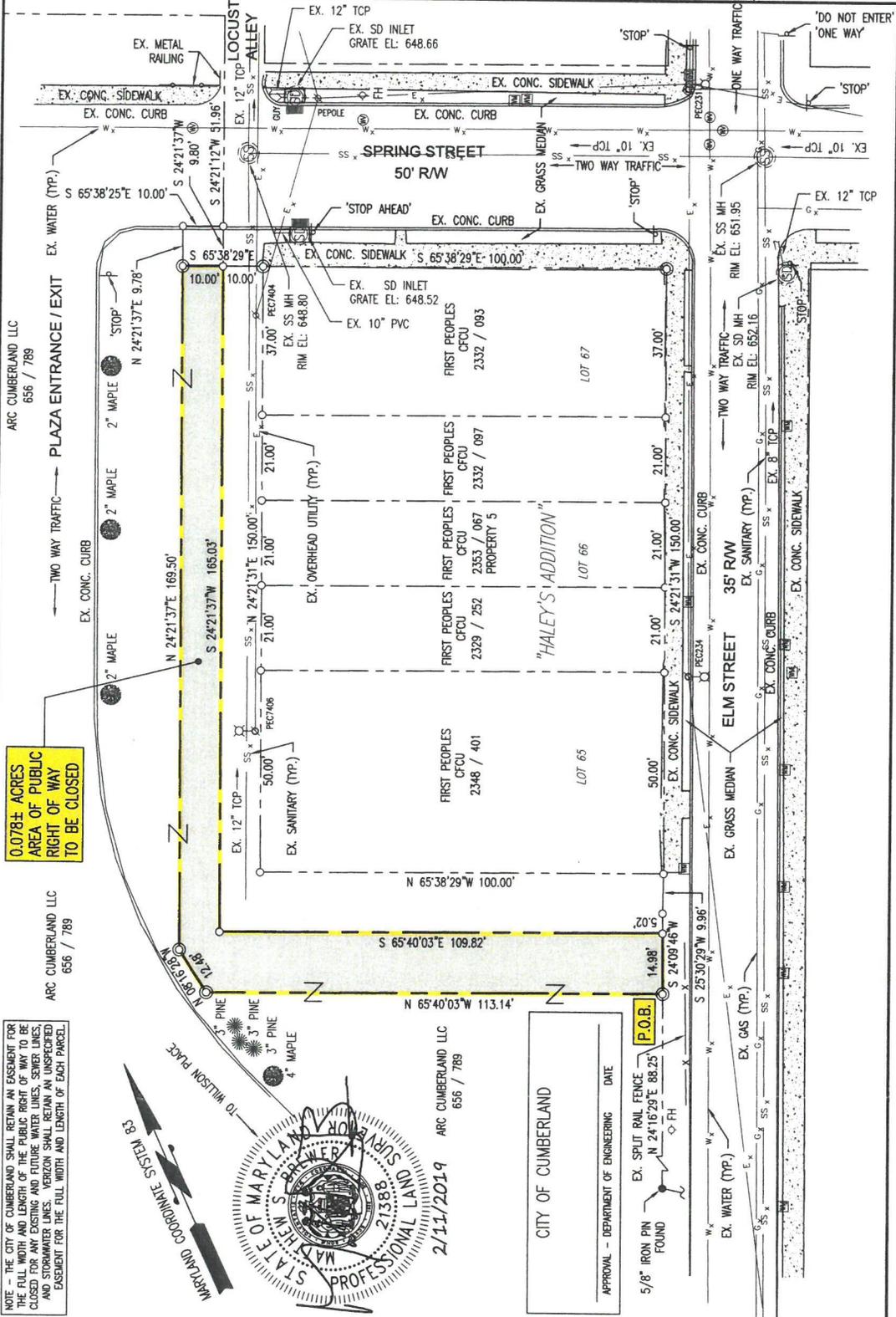
**MARYLAND**

SCALE: 1" = 30'

FEBRUARY 11, 2019

TAX MAP 109	PARCEL 2320 - 2325	PROJECT No. 2018044
CRD FILE: 18044	DRAWN: SM	APPROVED: MB
		CHECKED: AB/MB

CAD FILE: P:\2018\18044 - First Peoples - Elm Street - Cumberland\PLAT ARC.dwg PLOT DATE/TIME: 2/13/2019 - 3:29pm LAST SAVE BY: scott



NOTE - THE CITY OF CUMBERLAND SHALL RETAIN AN EASEMENT FOR THE FULL WIDTH AND LENGTH OF THE PUBLIC RIGHT OF WAY TO BE CLOSED FOR ANY EXISTING AND FUTURE WATER LINES, SEWER LINES, AND STORMWATER LINES. PERSONS SHALL RETAIN AN UNSPECIFIED EASEMENT FOR THE FULL WIDTH AND LENGTH OF EACH PARCEL.

MARYLAND CORONATE STEEL 83

STATE OF MARYLAND  
MATHIE S. BREWER  
21388  
PROFESSIONAL LAND SURVEYOR

2/11/2019

ARC CUMBERLAND LLC  
656 / 789

CITY OF CUMBERLAND

APPROVAL - DEPARTMENT OF ENGINEERING DATE

5/8" IRON PIN FOUND  
EX. SPLIT RAIL FENCE  
N 24°18'29"E 88.25'

P.O.B.

EX. WATER (TYP.)  
EX. GAS (TYP.)

0.078± ACRES  
AREA OF PUBLIC  
RIGHT OF WAY  
TO BE CLOSED

ARC CUMBERLAND LLC  
656 / 789

ARC CUMBERLAND LLC  
656 / 789

**EXHIBIT C**

**LEGAL DESCRIPTION  
MAYOR AND CITY COUNCIL OF CUMBERLAND  
TO  
FIRST PEOPLES COMMUNITY FEDERAL CREDIT UNION**

ALL that piece or parcel of land situated in the City of Cumberland, Election District No. 04-002, Allegany County, Maryland, and being more particularly described as follows [Maryland State Grid NAD83 Meridian courses and horizontal measurements being used thru out] to wit:

BEGINNING for the same at a point on the westerly right of way margin of Elm Street, said point being the end of the first line of a deed dated December 15, 2017, from John P. Alderton and Regina Alejandra Giampaoli Alderton to First Peoples Community Federal Credit Union, recorded in deed Liber 2348, Folio 401, among the Land Records of Allegany County, Maryland, thence running with Elm Street;

1. South 25 degrees 30 minutes 29 seconds West 9.96 feet to a point, thence;
2. South 24 degrees 09 minutes 46 seconds West 5.02 feet to a point, thence leaving Elm Street;
3. North 65 degrees 40 minutes 03 seconds West 109.82 feet to a point, thence;
4. North 24 degrees 21 minutes 37 seconds East 165.03 feet to a point on the southerly right of way margin of Spring Street, thence with Spring Street;
5. South 65 degrees 38 minutes 29 seconds East 10.00 feet to a 5/8" iron pin with cap set, thence leaving Spring Street;
6. South 24 degrees 21 minutes 31 seconds West 150.00 feet to a point at the end of the second line of the aforesaid deed recorded in deed Liber 2348, Folio 401, and running thence with said second line reversed;

South 65 degrees 38 minutes 29 seconds East 100.00 feet to the place of beginning, containing 0.072 acres, more or less, and as shown on a Plan of Survey plat prepared for First peoples Community Federal Credit Union, dated February 11, 2019, attached hereto and intended to be made a part hereof.

# EXHIBIT D

# bba

Surveyors | Engineers | Planners

Bennett Brewer & Associates, LLC  
23 East Main Street, Suite 200  
Frostburg, MD 21532  
Phone 301-687-0494

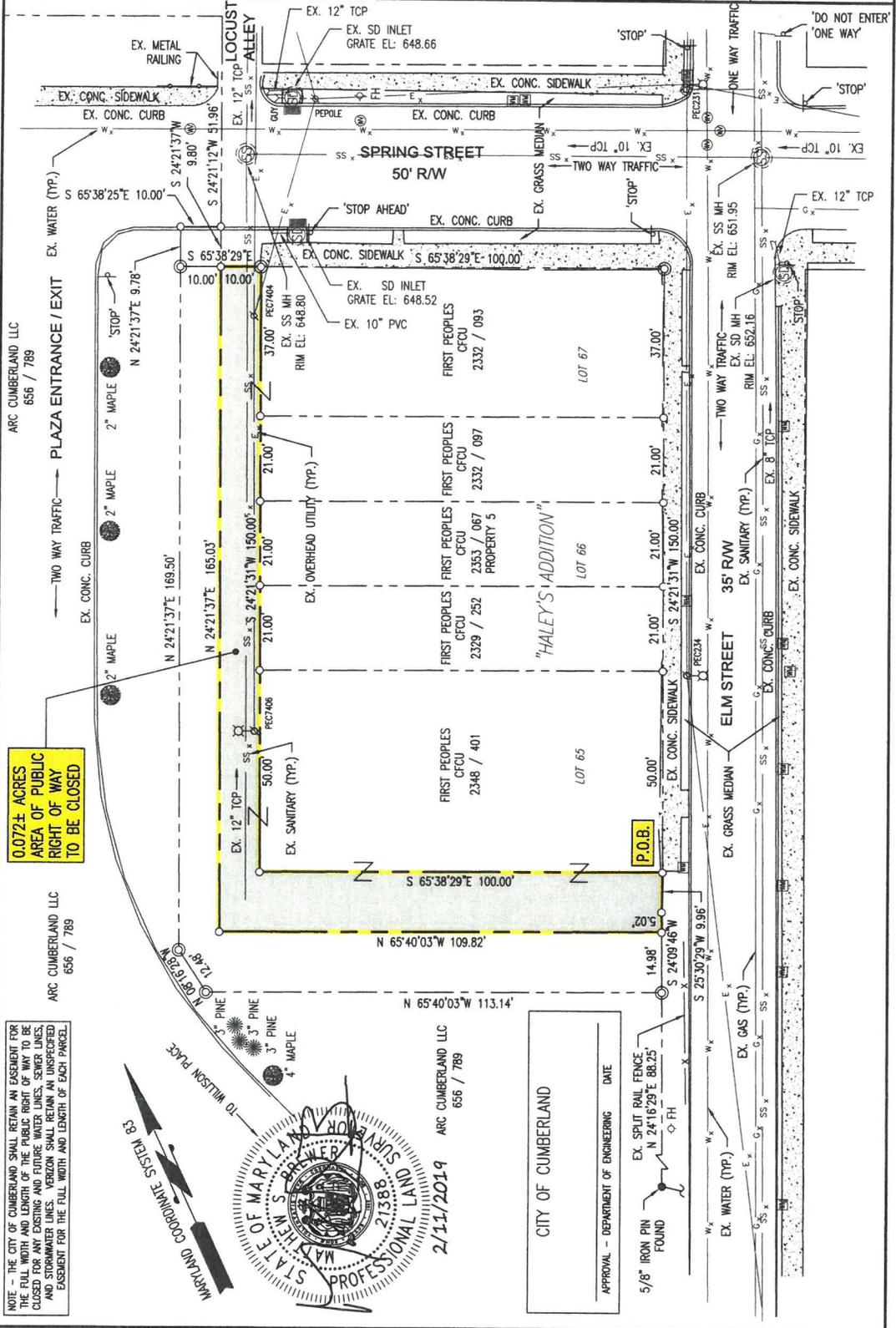
**PLAN OF SURVEY**  
made for  
**FIRST PEOPLES COMMUNITY FEDERAL CREDIT UNION**  
701 - 713 ELM STREET, ELECTION DISTRICT NO. 04-002  
CITY OF CUMBERLAND, ALLEGANY COUNTY  
**MARYLAND**

SCALE: 1" = 30'

FEBRUARY 11, 2019

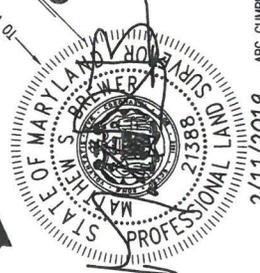
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CAD FILE: P:\2018\18044 - First Peoples - Elm Street - Cumberland\PLAT FPCC.dwg PLOT DATE/TIME: 2/13/2019 - 3:22pm LAST SAVE BY: scott



0.072± ACRES  
AREA OF PUBLIC  
RIGHT OF WAY  
TO BE CLOSED

NOTE - THE CITY OF CUMBERLAND SHALL RETAIN AN EASEMENT FOR THE FULL WIDTH AND LENGTH OF THE PUBLIC RIGHT OF WAY TO BE CLOSED FOR ANY EXISTING AND FUTURE WATER LINES, SEWER LINES, AND STORMWATER LINES. VERIZON SHALL RETAIN AN UNSPECIFIED EASEMENT FOR THE FULL WIDTH AND LENGTH OF EACH PARCEL.



CITY OF CUMBERLAND  
APPROVAL - DEPARTMENT OF ENGINEERING DATE

5/8" IRON PIN FOUND  
EX. SPLIT RAIL FENCE  
N 24°16'29"E 88.25'  
EX. WATER (TYP.)  
EX. GAS (TYP.)

ARC CUMBERLAND LLC  
656 / 789

ARC CUMBERLAND LLC  
656 / 789

ARC CUMBERLAND LLC  
656 / 789

**EXHIBIT E**  
**EASEMENTS, RESERVATIONS & RESTRICTIONS**

**SUBJECT, HOWEVER,** to an easement in favor of the party of the first part and public and private utilities, including, but not limited to, gas, electric and telephone service providers, for the full length and width of the right-of-way being closed for any existing utility lines, for stormwater and surface drainage and for the installation, inspection, operation, maintenance, repair, replacement and/or relocation of any needed utility lines and stormwater management and sediment and erosion control devices and improvements.

**FURTHERMORE,** it is a condition of the conveyance effected by this deed that the party of the second part, its successors, and assigns, or other(s) to whom this and the other portions of this right-of-way being closed shall be conveyed shall be allowed to use the surface of the land hereby conveyed; however, it shall not be permitted to place or erect structures or enclosures thereon without the written consent of the party of the first part, which consent may be granted or denied for any reason or no reason at all. The party of the second part's use of the property conveyed by this deed shall not interfere with the ingress, egress or other actions of the party of the first part and public and private utilities, as necessary for the installation, inspection, operation, maintenance, repair, replacement and/or relocation of the aforesaid utilities and appurtenances and improvements related thereto. Furthermore, no such structures or enclosures shall be located or constructed upon the land conveyed by this deed until plans therefore have been submitted to and approved by the party of the first part's Engineering Division, and no work in the construction of such structures or enclosures or in the use of the surface shall injure or disturb the aforesaid utilities and improvements related thereto or in any way interfere with or adversely impact their operation or maintenance.

**FURTHERMORE,** the party of the second part shall not be permitted to grade the property conveyed under the terms of this deed nor shall it be permitted to alter the surface of the land hereby conveyed, aside from filling potholes, except upon the written consent of the party of the first part, said consent not to be unreasonably withheld.

**FURTHERMORE**, in the event the party of the second part alters the surface of the land hereby conveyed or the subsurface thereof and said alterations result in the need to relocate public or private utilities' lines and/or other appurtenances and improvements related thereto, the party of the second part shall be liable for all costs associated with the relocation.

**FURTHERMORE**, the party of the first part, and public and private utilities, shall also have the right to enter upon the property hereby conveyed from time to time to remove, where necessary, such trees and other growths as may be required for the installation, inspection, operation, maintenance, repair, replacement and/or relocation of the aforesaid utility lines and stormwater management and sediment and erosion control devices and improvements related to the foregoing.

**IT IS UNDERSTOOD AND AGREED**, that the foregoing easements, covenants and restrictions shall be deemed to touch and concern the land, shall run with the title to the land, shall inure to the benefit of the party of the first part and the other parties thereby benefited, and shall be binding upon the party of the second part and all future owners or possessors of all or any of the land hereby conveyed as well as their personal representatives, heirs, successors and assigns, and any and all persons and entities claiming through them.