



November 9, 2007

David L. Wentworth
William P. Streeter
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 Southwest Adams Street, Suite 360
Peoria, IL 61602-1320

**RE: SABLE CREEK SUBDIVISION – FIRST AMENDMENT TO THE
ANNEXATION AGREEMENT - CPC 07-U**

Please be advised that on Tuesday, August 28, 2007, the City Council approved the following:

RESOLUTION NO. 07-452, APPROVING THE FIRST AMENDMENT TO THE ANNEXATION AGREEMENT FOR THE SABLE CREEK PROPERTY, A RESIDENTIAL DEVELOPMENT LOCATED EAST OF IL ROUTE 6, SOUTH OF CHARTER OAK ROAD, ALONG THE EAST SIDE OF CHARTER OAK LANE. THE PROPERTY IS IDENTIFIED AS PART OF PARCEL IDENTIFICATION NUMBERS 13-23-200-027 AND 13-23-200-022. (CPC 07-U) [District 5]

The request was approved as outlined in the enclosed documents. If you have any questions, please contact me at 494-8667.

Sincerely,

A handwritten signature in cursive script that reads 'Leah Allison'.

Leah Allison, AICP
Senior Urban Planner

LA/ps

Enclosures

P:\PGM\COMMISSIONS\PLANNING COMMISSION\CPC 07-U\CPC 07-U- CC RESULTS.DOC

RESOLUTION NO. 07-452
CITY OF PEORIA.

Amended
05-550

Peoria, Illinois AUGUST 28, 20 07

A RESOLUTION APPROVING THE FIRST AMENDMENT TO ANNEXATION AGREEMENT FOR PROPERTY LOCATED EAST OF IL ROUTE 6, SOUTH OF CHARTER OAK ROAD, ALONG THE EAST SIDE OF CHARTER OAK LANE. THE PROPERTY IS IDENTIFIED AS PART OF PARCEL IDENTIFICATION NUMBERS 13-23-200-027 AND 13-23-200-022, ALL LOCATED WITHIN THE CITY OF PEORIA, ILLINOIS

Resolved

WHEREAS, GK Development Services, is the holder of a contract to purchase certain real estate within the corporate limits of the City of Peoria and has entered into an agreement providing for the annexation of this property to the City of Peoria upon certain conditions; and

WHEREAS, GK Development Services and the City of Peoria are desirous of amending the Annexation Agreement, which provides for the annexation of this real estate, said amendment attached hereto as "Attachment A"; and

WHEREAS, the City Council of the City of Peoria believes that the vicinity and general welfare of the City will be served by amending this agreement, which establishes various conditions relating to, but not limited to, a Charter Oak Lane roadway improvements; and

WHEREAS, a public hearing upon said First Amendment to Annexation Agreement was conducted, with proper notice, by the City Council on August 28, 2007, and there has been compliance with all provisions of 65 ILCS 5/7-1 *et seq.*

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS:

Section 1. That the Mayor is hereby authorized to execute the First Amendment to Annexation Agreement attached hereto as "Attachment A" with the petitioners, and the City Clerk is hereby authorized to attest said agreement.

Section 2. This resolution shall be effective upon passage and approval according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, THIS 28th DAY OF AUGUST 2007.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED

Corporation Counsel

FILED

OCT 26 2007

R. STEVE SONNEMAKER
PEORIA COUNTY CLERK

Prepared by:

David L. Wentworth
William P. Streeter
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 Southwest Adams Street, Suite 360
Peoria, IL 61602-1320

Return to:

Patricia Landes
City of Peoria
Department of Planning & Growth Management
4th Floor
456 Fulton Street
Peoria, IL 61602

FILED
OCT 26 2007
R. STEVE SONNEMAKER
PEORIA COUNTY CLERK

FIRST AMENDMENT TO ANNEXATION AGREEMENTS

This First Amendment to Annexation Agreement ("Amendment") is made and entered into this 15th day of October, 2007, by and between the City of Peoria, Illinois, an Illinois municipal corporation, located in Peoria County, Illinois ("City"), by and through its Mayor and its City Council ("Corporate Authorities"), GK Development Services, LLC, as developer and successor in interest to Glen E. Mulvaney, Annette F. Mulvaney, and Teresa L. Mulvaney (hereafter "Developer") and Daniel A. and Miriam R. Messerli as Co-Trustees of the Daniel A. and Miriam R. Messerli Living Trust dated April 12, 1999 (hereafter "Messerli").

WITNESSETH:

WHEREAS, the City and the Developer entered into that certain Annexation Agreement on November 1, 2005 (the "First Annexation Agreement") proposing to annex the real property described on Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, the City and Developer subsequently entered into another Annexation Agreement on or about July 11, 2006 (the "Second Annexation Agreement") proposing to annex the real property described on Exhibit B attached hereto and incorporated herein by this reference; and

WHEREAS, the First Annexation Agreement and Second Annexation Agreement impose certain obligations on the Developer regarding the improvements to Charter Oak Lane; and

WHEREAS, the City and Developer have reached agreement regarding Developer's improvements to Charter Oak Lane; and

WHEREAS, pursuant to the provisions of 65 ILCS 5/11-15.1-1, et seq., this proposed Amendment was submitted to the Corporate Authorities and a public hearing was held thereon pursuant to notice as provided by law;

WHEREAS, all notices required by law have been sent by the City to, and received by, all entities to whom notices may be required by law to be given;

WHEREAS, the City after due deliberation has, by resolution, duly adopted and approved the entering into this Amendment,

NOW, THEREFORE, in consideration of the above and the mutual covenants and agreements herein contained **IT IS HEREBY AGREED**, as follows:

1. *Authoritative Law.* This Amendment is made pursuant to the provisions of 65 ILCS 5/11-15.1-1, et seq.

2. *Amendment to First Annexation Agreement.* Section 5.C.(5) of the First Annexation Agreement is hereby deleted in its entirety, and the following inserted in its place:

(5) As approved by the Kickapoo Township Road Commissioner and the Peoria County Highway Commissioner, Charter Oak Lane will be improved by Developer and Messerli as follows:

(A) Developer shall construct a new roadway surface with curb and gutter to city standards (one-half a city street) as shown on the preliminary plat adjacent to the subdivision and abutting the existing pavement of Charter Oak Lane. Within 30 days of the City's approval and execution of this Amendment, Developer shall commence and thereafter diligently construct such roadway, which shall include the patch and overlay of Charter Oak Lane adjacent to the subdivision with one and one half (1 ½) inches of asphalt.

Notwithstanding anything to the contrary in the City's Codes, Ordinances, Regulations, Standard Specifications, Manual, or any prior agreements, written or oral, Developer's construction of Charter Oak Lane will be as follows:

(a) Developer shall apply a leveling binder, then immediately apply one and one-half (1 ½) inches of asphalt. Tilling, shaping and compacting shall not be necessary.

(b) Developer shall warrant such asphalt paving from the date of completion until the earlier of the following:

(i) the fifth anniversary of the date of completion of the asphalt paving; or

(ii) the second anniversary of the sale of 80% (32 of 39) of the lots in the subdivision.

(B) At such time as construction is complete on 80% of the lots shown on the final plat (or earlier by agreement of the Developer, City and Messerli):

i) Messerli shall dedicate to the township, thirty feet of right of way on the Western edge of his property;

ii) From the Northern edge of the subdivision, Messerli shall

(a) create a three foot bituminous shoulder on the existing Western three feet of Charter Oak Lane,

(b) add nine feet of pavement width from the Eastern edge of the existing pavement and a three foot aggregate or bituminous shoulder

(c) add a drainage ditch on the Eastern edge of the shoulder and

(d) patch and overlay that portion of Charter from the North edge of Developer's subdivision to Charter Oak Road with 1 ½ inches of asphalt. No additional intersection improvement shall be required of Messerli so long as the Messerli property is used for residential uses and no change to the existing culvert at Charter Oak Road shall be required of Messerli.

(C) Any change to the culvert shall be the responsibility of the Township and/or County.

(D) The resulting Charter Oak Lane moving from East to West will have a cross section from the intersection of Charter Oak Road for a distance of 400 feet as follows: drainage ditch, three feet of aggregate or bituminous shoulder, twenty-four feet of pavement width, three feet of bituminous shoulder (striped with a white line to indicate shoulder). No change will be made in the right of way West of the existing pavement of Charter Oak Lane.

3. *Amendment to Second Annexation Agreement.* The Second Annexation Agreement is hereby amended by inserting the following language at the end of subsection 5.C.(4):

as the same may be amended from time to time.

4. *No Changes in Messerli's Obligations.* The intent of this Amendment is to set forth the changes in Developer's obligations. This amendment is not intended to alter Messerli's obligations in any way.

5. Except as provided herein, the First Annexation Agreement and Second Annexation Agreement shall remain in full force and effect.

6. *Miscellaneous/General.*

A. If any provisions of this Amendment or any section, sentence, clause, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Amendment and the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

B. This Amendment shall inure to the benefit of, and be binding upon, successors of the Developer and its respective successors, grantees, lessees, and assigned, and upon successor corporate authorities or the City and successor municipalities, and shall constitute a covenant running with the land.

C. Each of the parties agrees to mutually assist and cooperate with the other in effectuating the spirit and intent hereof, and in that regard, each party agrees to execute any and all documentation and take any and all actions as may be reasonably appropriate or required in connection therewith.

D. This Amendment and the rights of the parties hereto shall be interpreted, construed and enforced in accordance with the laws of the State of Illinois. Any litigation concerning this Amendment shall be commenced in the County of Peoria, State of Illinois. This Amendment may be enforced as provided by law and the parties may by civil action, mandamus, injunction or other proceeding, enforce and compel the performance of this Amendment.

(This Space Intentionally Left Blank)

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to Annexation Agreement on the date first above written and, by so executing, each of the parties warrants that it possesses full right and authority to enter into this Annexation Agreement.

CITY OF PEORIA, an Illinois Municipal
Corporation

By: _____

James Ardis
Its Mayor

ATTEST:

By: _____

City Clerk

EXAMINATION AND APPROVAL
BY CORPORATION COUNSEL:

By: _____

DEVELOPER:

GK Development Services, LLC

By: _____

Richard L. Krupp
Its: Manager

OWNERS:

Daniel A. Messerli
Daniel A. Messerli, as Co-Trustee of the
Daniel A. and Miriam R. Messerli Living
Trust dated April 12, 1999

Miriam R. Messerli
Miriam R. Messerli, as Co-Trustee of the
Daniel A. and Miriam R. Messerli Living
Trust dated April 12, 1999

EXHIBIT A

LEGAL DESCRIPTION
FIRST ANNEXATION AGREEMENT

EXHIBIT AParcel One:

A 10-acre tract on the South half of the Property described as:

Part of the Northwest Quarter of the Northeast Quarter of Section 23, Township 9 North, Range 7 East of the Fourth Principal Meridian, more particularly bounded and described as follows, to-wit: Commencing at the Northwest corner of the Northeast Quarter of said Section 23; thence Easterly along the North line of the West Half of the Northeast Quarter of Section 23, 876.90 feet to the place of beginning of the tract to be described; thence continuing Easterly along the Northerly line of the West Half of said Northeast Quarter of Section 23, 440.00 feet to the East line of the West Half of the Northeast Quarter of said Section 23; thence Southerly along the East line of the West Half of the Northeast Quarter of said Section 23, 1324.20 feet to the South line of the North Half of the West Half of the Northeast Quarter of said Section 23; thence Westerly along the South line of the North Half of the West Half of the Northeast Quarter of said Section 23, 564.78 feet to a point which is 720.91 feet Easterly from the Southwest corner of the West Half of the North Half of the Northeast Quarter of Section 23; thence North 6° 44' East, 1330.05 feet along the center line of Linda Lane to the place of beginning, containing 15.27 acres, more or less; EXCEPTING THEREFROM a part of the Northwest Quarter of the Northeast Quarter of Section 23, Township 9 North, Range 7 East of the Fourth Principal Meridian, Peoria County, Illinois, more particularly bounded and described as follows, and bearings are for the purpose of description only: Commencing at an iron pipe at the Southeast corner of the Northwest Quarter of the Northeast Quarter of said Section 23; thence North 88° 39' West, along the South line of the Northwest Quarter of the Northeast Quarter of said Section 23, a distance of 285.00 feet to an iron rod, said iron rod being the point of beginning for the tract to be described; thence continuing North 88° 39' West, along the South line of the Northwest Quarter of the Northeast Quarter of said Section 23, a distance of 279.80 feet to the center line of a lane; thence North 06° 44' East, along the center lane of said lane, 160.70 feet; thence South 88° 39' East, 264.70 feet to an iron rod; thence South 01° 21' West, 160.00 feet to the point of beginning, containing 1.000 acres, and subject to any right of ingress and egress of said lane along the Westerly side of the above-described tract, and also subject to any easements of record for utility purposes; AND EXCEPTING THEREFROM a part of the Northeast Quarter of Section 23, Township 9 North, Range 7 East of the Fourth Principal Meridian, being a part of a tract shown on a plat recorded in Book 1158, page 381, Peoria County Recorder's Office, Peoria County, Illinois, being more particularly described as follows: Commencing at an iron monument at the Northeast corner of said Section 23; thence North 88° 54' 24" West, along the North line of the Northeast Quarter of said Section 23, a distance of 1319.44 feet to the Northeast corner of the West Half of the Northeast Quarter of said Section 23; thence South 00° 48' 26" West along the East line of said West Half of the Northeast Quarter, a distance of 54.99 feet to the Southerly right-of-way line of Charter Oak Road, also being County Highway D-37, said point being the point of beginning for the tract to be described; thence continuing South 00° 48' 26" West along said East line, a distance of 396.00 feet to an iron monument; thence North 89° 08' 34" West, a distance of 220.00 feet to an iron monument; thence North 00° 48' 26" East along a line parallel with said East line of the West Half of the Northeast Quarter, a distance of 396.00 feet to an iron monument on the Southerly right-of-way line of Charter Oak Road; thence South 89° 08' 34" East along said Southerly right-of-way line, a distance of 220.00 feet to the point of beginning, containing 2.000 acres, more or less, being subject to all existing easements and rights-of-way, as set forth in the plat attached to Document No 95-29050 in the office of the Recorder of Deeds, Peoria County, Illinois; situated in the County of Peoria and State of Illinois.

PIN #: 13-23-200-027

A part of the Northeast Quarter of Section Twenty-three (23), Township Nine (9) North, Range Seven (7) East of the Fourth Principal Meridian, more particularly described as follows:

Commencing at the Northeast corner of the Northeast Quarter of said Section Twenty-three (23), thence North 88° 54' 24" West, (bearing assumed for purpose of description only), along the North line of the Northeast Quarter of said Section Twenty-three (23), 1319.44 feet to the West line of the East Half of the Northeast Quarter of said Section Twenty-three (23); thence South 00° 48' 26" West, along said West line, 450.99 feet to the Point of Beginning of the tract to be described; FROM THE POINT OF BEGINNING,

thence South 89°-08'-34" East, 150.00 feet; thence South 20°-47' -38" East, 174.07 feet; thence South 03°31' -03" East, 774.07 feet to the Northwestern line of Weaver Ridge, Phase One, a subdivision in part of the Northeast Quarter of said Section Twenty-three (23) as recorded in Plat Book 6, Pages 1.1 through 20, in the Peoria County Recorder's Office; thence South 52 °-17'-44" West, along said Northwestern line, 126.89 feet; thence South 75°-27' -19" West, along said Northwestern line, 179.56 feet to the West line of the East Half of the Northeast Quarter of said Section Twenty-three (23); thence North 00°-48"-26" East, along said West line, 1060.19 feet to the Point of Beginning, said tract containing 5.485 acres, more or less.

PIN # 13-23-200-022

EXHIBIT B
LEGAL DESCRIPTION
SECOND ANNEXATION AGREEMENT

FILED

OCT 26 2007

R. STEVE SONNEMAKER
PEORIA COUNTY CLERK

LEGAL DESCRIPTION OF PROPOSED 12.568 ACRE ANNEXATION

A PART OF THE NORTHEAST QUARTER OF SECTION TWENTY-THREE (23), TOWNSHIP NINE (9) NORTH, RANGE SEVEN (7) EAST OF THE FOURTH PRINCIPAL MERIDIAN, CITY OF PEORIA, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION TWENTY-THREE (23), THENCE NORTH $88^{\circ}-54'-24''$ WEST, (BEARING ASSUMED FOR PURPOSE OF DESCRIPTION ONLY), ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION TWENTY-THREE (23), 60.00 FEET; THENCE SOUTH $00^{\circ}-51'-39''$ WEST, PARALLEL TO THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION TWENTY-THREE (23), 429.69 FEET TO THE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED: FROM THE POINT OF BEGINNING, THENCE SOUTH $00^{\circ}-51'-39''$ WEST, 515.54 FEET TO THE NORTH LINE OF WEAVER RIDGE SUBDIVISION, PHASE ONE (1), AS SHOWN ON A PLAT RECORDED IN PLAT BOOK SIX (6), PAGE ELEVEN (11) IN THE PEORIA COUNTY RECORDER'S OFFICE; (THE FOLLOWING SIX (6) COURSES ARE ALONG SAID NORTH LINE); THENCE SOUTH $89^{\circ}-33'-06''$ WEST, 134.00 FEET; THENCE SOUTH $65^{\circ}-33'-12''$ WEST, 337.93 FEET; THENCE NORTH $79^{\circ}-56'-54''$ WEST, 76.85 FEET; THENCE SOUTH $71^{\circ}-31'-00''$ WEST, 266.24 FEET; THENCE SOUTH $45^{\circ}-00'-51''$ WEST, 221.24 FEET; THENCE SOUTH $52^{\circ}-17'-44''$ WEST, 83.20 FEET; THENCE NORTH $03^{\circ}-31'-03''$ WEST, 437.99 FEET; THENCE NORTH $68^{\circ}-34'-56''$ EAST, 132.03 FEET; THENCE NORTH $46^{\circ}-04'-56''$ EAST, 243.35 FEET; THENCE NORTH $25^{\circ}-34'-49''$ WEST, 71.37 FEET; THENCE NORTH $40^{\circ}-12'-21''$ EAST, 296.05 FEET; THENCE SOUTH $88^{\circ}-59'-36''$ EAST, 568.32 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 12.568 ACRES, MORE OR LESS.

FILED
OCT 26 2007
R. STEVE SONNEMAKER
PEORIA COUNTY CLERK