

ORDINANCE NO. F-0797

**AN ORDINANCE AUTHORIZING EXECUTION OF A FIRST MINOR AMENDMENT
TO A CERTAIN ANNEXATION AGREEMENT DATED AUGUST 6, 2001 –
(LEGENDS OF WHEATON SUBDIVISION)**

WHEREAS, the City of Wheaton, Illinois ("City"), and Joe Keim Land Corp., an Illinois corporation, ("Owner/Developer") have previously entered into an annexation agreement dated August 6, 2001 ("Annexation Agreement"); the subject matter of the Annexation Agreement is the property legally described in Exhibit "A" of the Annexation Agreement ("subject property"); and

WHEREAS, pursuant to acquisition of the subject property from Owner/Developer, the Legends of Wheaton, L.L.C., an Illinois limited liability company ("Legends"), is the successor in interest of Owner/Developer of the subject property; and

WHEREAS, Legends caused the subject property to be subdivided pursuant to the final plat of subdivision recorded as DuPage County Recorder Document No. R2002-255392 and constructed certain various public improvements in accordance with the provisions of the Annexation Agreement and applicable ordinances of the City; the subdivision is now commonly known as "The Legends of Wheaton"; and

WHEREAS, Legends is now requesting amendment of Exhibit "G" which is attached to the Annexation Agreement, regarding the application of a uniform minimum front-yard setback of thirty (30) feet for all buildable lots within the subdivision; and a uniform side-yard width for all buildable lots within the subject property as follows: (a) The minimum side-yard for structures or parts of structures which do not exceed one and one-half (1½) stories, shall be the lesser of eight percent (8%) of the lot width or ten feet (10'); (b) The minimum side-yard for structures or parts of structures in excess of one and one-half (1½) stories, but not more than thirty-five feet (35') in height, shall be the lesser of 14 percent (14%) of the lot width or fifteen feet (15'); and

WHEREAS, the City has determined the requested amendment is a minor amendment and may be implemented without public hearing, pursuant to the provisions of Section 18-8(2) of Chapter 18 of the Wheaton City Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Annexation Agreement is amended by deleting the original Exhibit "G" attached to the Annexation Agreement in its entirety and substituting in its place the amended form attached hereto as Amended Exhibit "G"; the Amended Exhibit "G" is incorporated into and made a part of the Annexation Agreement, in lieu of the original Exhibit "G."

Section 2: A copy of the First Minor Amendment to Annexation Agreement dated March 17, 2003 and this ordinance shall be recorded in the office of the Recorder of Deeds, DuPage County, Illinois, at the expense of Owner/Developer.

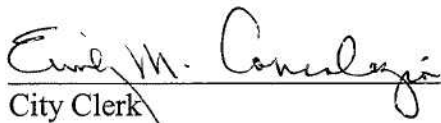
Section 3: The terms and conditions of the Annexation Agreement are ratified and remain in full force and effect.

Section 4: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 5: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Mayor



City Clerk

Ayes:

Roll Call Vote:

Councilman Mouhelis
Councilman Tamm
Councilman Gresk
Councilman Johnson
Councilwoman Johnson
Mayor Carr

Nays:

None

Absent:

Councilman Mork

Motion Carried Unanimously

Passed: March 17, 2003
Published: March 18, 2003

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EXHIBIT A

The property is legally described as:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE NORTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 30, AND RUNNING THENCE SOUTH 0 DEGREES 15 MINUTES EAST ALONG THE EAST LINE OF SAID WEST HALF OF THE SOUTHEAST QUARTER, 2136.1 FEET TO THE CENTER LINE OF THE NEW BUTTERFIELD ROAD, WHICH WAS DEDICATED AS FEDERAL AID HIGHWAY ROUTE 131; THENCE NORTH 80 DEGREES 13 MINUTES WEST ALONG SAID CENTER LINE, 1638.8 FEET TO A POINT OF CURVATURE; THENCE CONTINUING WESTERLY ALONG SAID LINE, BEING ON A CURVE TO THE LEFT HAVING A RADIUS OF 8384.8 FEET, FOR A DISTANCE OF 193.55 FEET, FOR A PLACE OF BEGINNING; THENCE CONTINUING WESTERLY ALONG SAID CURVED CENTER LINE 446.15 FEET TO AN IRON STAKE ON THE EAST LINE OF WIESBROCK'S SUBDIVISION; THENCE NORTH 03 DEGREES 49 MINUTES EAST ALONG SAID EAST LINE 680.67 FEET; THENCE NORTH 75 DEGREES 48 MINUTES EAST 413.0 FEET; THENCE SOUTH 00 DEGREES 12 MINUTES WEST, 834.93 FEET TO THE PLACE OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS, AND ALSO THAT PART OF THE SOUTH HALF OF BUTTERFIELD ROAD LYING ADJACENT TO THE ABOVE DESCRIBED TRACT.

PERMITTED VARIATIONS

1. Reduction of minimum lot depth for lots 27, 34, 35, 38 and 42 as identified on the Site Plan from 132 feet down to the actual lot depth for each of said lots as established on the recorded final plat of subdivision for the Subject Property.
2. Application of a uniform minimum front yard setback of thirty (30) feet for all buildable lots within the Subject Property, the provisions of footnote to Section 9.2.5 of the Wheaton Zoning Ordinance to the contrary notwithstanding.
3. Application of a uniform minimum side yard width for all buildable lots within the Subdivision as follows:
 - (a) The minimum side yard for structures or parts of structures which do not exceed 1½ stories, shall be the lesser of 8% of the lot width or 10 feet;
 - (b) The minimum side yard for structures or parts of structures in excess of 1½ stories, but not more than 35 feet in height, shall be the lesser of 14% of the lot width or 15 feet;
 - (c) The minimum side yard width for a side yard adjoining a public street shall be 20 feet, but shall be only 12 feet if there are no more than two lots in the block with lot lines facing said public street. Provided, however, that no side yard adjoining a public street shall be less than the side yard required by (a) and (b), above;

the provisions of Section 3.4.A.5 of Chapter III of the Zoning Ordinance to the contrary notwithstanding.