

ORDINANCE NO. F-1638

**AN ORDINANCE AUTHORIZING THE SIGNING OF A FIRST AMENDMENT TO AN
ANNEXATION AGREEMENT-NORTHWEST CORNER OF ORCHARD &
BUTTERFIELD ROADS – SOLARN VENTURES, LLC
(WOODLANDS OF WHEATON)**

WHEREAS, the City of Wheaton, Illinois, ("City") and Solarn Ventures, LLC ("Owner") have previously entered into an Annexation Agreement dated November 15, 2004, ("Annexation Agreement") pertaining to the real estate described in the Annexation Agreement ("Subject Property"); and

WHEREAS, Stanya Holdings, LLC is the successor in interest to Solarn Ventures, LLC and is currently the owner of legal title to the Subject Property; and

WHEREAS, the Owner has petitioned the City to amend the Annexation Agreement to reduce the number of residential lots from three to two; and

WHEREAS, the City held a public hearing on April 23, 2012 to consider the proposed amendment; and

WHEREAS, the City is agreeable to amending the Annexation Agreement pursuant to the request of the Owner in accordance with the terms and provisions herein after set forth in this First Amendment to Annexation Agreement.

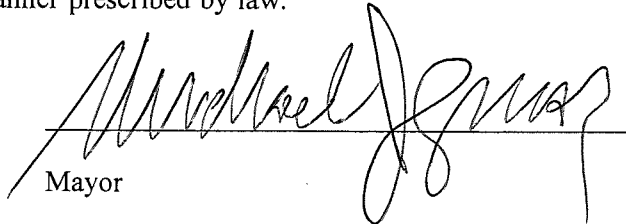
NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Mayor of the City is authorized and directed to sign, on behalf of the City, the First Amendment to an Annexation Agreement, and the City Clerk is authorized and directed to attest to the signature of the Mayor and affix the corporate seal of the City thereon. A copy of the First Amendment to an Annexation Agreement is on file in the Office of the City Clerk and is incorporated into this ordinance by this reference as though fully set forth herein.

Section 2: The First Amendment to an Annexation Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois, at the expense of the Owners.

Section 3: All Ordinances or parts of Ordinances in conflict with these provisions are repealed.

Section 4: This Ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Mayor

ATTEST:



City Clerk

City Clerk

Roll Call Vote:

Ayes: Councilman Rutledge
Mayor Gresk
Councilwoman Pacino Sanguinetti
Councilman Scalzo
Councilman Suess
Councilwoman Ives
Councilman Mouhelis

Nays: None

Absent: None

Motion Carried Unanimously

Passed: May 7, 2012
Published: May 8, 2012

FIRST AMENDMENT TO ANNEXATION AGREEMENT

THIS FIRST AMENDMENT TO ANNEXATION AGREEMENT ("First Amendment"), is made and entered as of the 7th day of May, 2012, by and between the CITY OF WHEATON, ILLINOIS, an Illinois municipal corporation, located in DuPage County, State of Illinois ("City") and Stanya Holdings, LLC ("Owner"). The City and Owner are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS:

A. The City has heretofore entered into that certain Annexation Agreement between the City and Solarn Ventures, LLC ("Solarn"), dated November 15, 2004 and recorded with the DuPage County Recorder's office as Document No. R2005-126937 ("Annexation Agreement") pertaining to the annexation and development of the real estate legally described in Exhibit "A" attached hereto ("Subject Property" or "Development").

B. Stanya Holdings, LLC is the successor in interest to Solarn in the Development and is currently the owner of legal title to the Subject Property.

C. Owner seeks to amend the Annexation Agreement to reduce the number of residential lots in the Development from three to two.

D. Pursuant to the provisions of Section 6.1, *et.seq.*, of the Wheaton City Code and applicable provisions of the Illinois Compiled Statutes and Illinois Constitution, a proposed First Amendment to Annexation Agreement was submitted to the Wheaton City Council and a public hearing was held thereon pursuant to notices provided by Ordinance and Statute.

E. All owners of record of real property located within 250 feet of the Subject Property, as reflected in the tax records of DuPage County, Illinois, have been duly notified in the manner provided by law.

F. Notice, if required, has been duly served in the manner provided by statute on the appropriate governmental entities; and an affidavit of service of said notice has been duly served and placed on record with the DuPage County Recorder's office.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

1. LEGAL CONFORMANCE WITH LAW. This First Amendment is made pursuant to and in accordance with the provisions of the Wheaton City Code and applicable provisions of the Illinois Compiled Statues and Illinois Constitution.

2. REZONING/VARIATION. Paragraph 4B. Variation of the Annexation Agreement shall be deleted in its entirety.

3. DEVELOPMENT STANDARDS. Paragraph 5 of the Annexation Agreement shall be deleted in its entirety and replaced with the following:

“ The Site Plan entitled Preliminary Plat Stanya’s ReSubdivision prepared by Thomas Whitt & Associates, Geneva, IL dated 2/20/12, is hereby approved as the Preliminary Plat for the subdivision of the Subject Property. The City agrees to approve the final plat of subdivision provided said final plat, final engineering and other such final plans are revised to include a building setback line for Lot 1 of 60 feet, a building setback line for Lot 2 of 40 feet, and that the two lots share a single curb cut to be identified on said final plat.”

4. NOTICES. Paragraph 28.A. of the Annexation Agreement is hereby amended to provide that notices to Owner shall be addressed as follows:

A. Owner: Stanya Holdings LLC
703 Childs Street
Wheaton, IL 60187

5. CONTINUITY OF AGREEMENTS. The Annexation Agreement shall remain and continue in full force and effect, subject to the amendments thereto as set forth in this First Amendment. All conflicts between the terms of the Annexation Agreement and this First Amendment shall be resolved in favor of this First Amendment. This First Amendment is hereby incorporated into and made a part of the Annexation Agreement and all terms and provisions of the Annexation Agreement not amended by this First Amendment shall be applicable to and govern this First Amendment.

IN WITNESS WHEREOF, the Corporate Authorities of the City and Owner have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials, as of the date first above written.

CITY:

OWNER:

ATTEST:

ATTEST:

