



August 26, 2004

Kate Smart
4240 Northbrook
Peoria, IL 61614

Interested Parties

RE: Case No. CPC 04-G

Please be advised that on Tuesday, August 17, 2004, the City Council approved the following request:

RECOMMENDATION TO APPROVE RESOLUTION APPROVING: 1)THE ANNEXATION AGREEMENT; AND 2) THE REVISED PRELIMINARY PLAT FOR PROPERTY LOCATED WEST OF KOERNER ROAD, NORTH OF IL ROUTE 8 (SOUTHPORT ROAD), AND SOUTH OF INTERSTATE 74 WITH AN ADDRESS OF 6627 SOUTHPORT ROAD. (CPC 04-G)

This request was approved as outlined in the enclosed copies of the approved 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
Urban Planner

LA/ps

Enclosures



Twin Towers Building
456 Fulton Street, Suite 402
Peoria, Illinois 61602
309/494-8600
FAX 309/494-8680

RESOLUTION NO. 04-438-A
CITY OF PEORIA.

Peoria, Illinois August 17, 2004

A RESOLUTION APPROVING THE ANNEXATION AGREEMENT FOR PROPERTY LOCATED WEST OF KOERNER ROAD, NORTH OF IL ROUTE 8 (SOUTHPORT ROAD), AND SOUTH OF INTERSTATE 74 WITH AN ADDRESS OF 6627 SOUTHPORT ROAD, ALL LOCATED WITHIN ONE AND ONE-HALF MILES OF THE CITY OF PEORIA, ILLINOIS

Resolved

WHEREAS, Kate and Stephen Smart, are the owners of certain real estate near the corporate limits of the City of Peoria and are desirous of entering into an agreement providing for the annexation of this property to the City of Peoria upon certain conditions; and

WHEREAS, the City of Peoria is desirous of entering into an agreement providing for the annexation of this real estate, said agreement attached hereto as "Attachment A"; and

WHEREAS, the City Council of the City of Peoria believe that the vicinity and general welfare of the City will be served by entering into this agreement which establishes various conditions relating to, but not limited to, zoning and land use; and

WHEREAS, a public hearing upon said annexation agreement was conducted, with proper notice, by the City Council on August 17, 2004, 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 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 17TH DAY OF AUGUST 2004.

APPROVED:

David P. Rausch
Mayor

ATTEST:

Mary J. Harper
City Clerk

EXAMINED AND APPROVED

K.A. Gonsel
Senior Staff Attorney
Clerk of the Board
Gonsel

ANNEXATION AGREEMENT

This Annexation Agreement, effective the 17th day of August, 2004, is by and between the City of Peoria, a municipal corporation, hereinafter referred to as "City", and Stephen J. Smart and Kathryn M. Smart, as husband and wife and each individually in their own right, hereinafter collectively referred to as "Smart".

Handwritten signature
1000 AUG - 2004
CITY OF PEORIA
13

RECITALS

Whereas, Smart is the sole owner of certain property located in Peoria County, Illinois, which is legally described on attached Exhibit A and hereinafter referred to as the "Property";

Whereas, the Property consists of approximately 159.601 acres of uninhabited land that is not contiguous to City;

Whereas, a public hearing was held following proper publication of notice of the hearing to permit public comments regarding this Agreement;

Whereas, City has determined that it is in the best interests of City to provide for the planned and managed growth of City;

Whereas, City has determined it is in the best interests of City to provide that property identified as potential growth areas for City shall be developed in accordance with City ordinances with an appropriate infrastructure given the proposed density of the Property;

Whereas, City and Smart want to enter into an agreement that will provide for annexation of the Property into City if and when the Property becomes contiguous to City.

Whereas, proper notice has been given to all library districts and fire protection districts located within the Property;

Whereas, notice of a proposed annexation has been given to township supervisors, township road commissioners having jurisdiction over any road to be affected by the proposed Annexation, and all other individuals and governmental entities required by statute.

AGREEMENTS

Now, therefore, for one dollar and other good and valuable consideration in hand received, it is hereby agreed as follows:

1. Annexation: City, at City's sole option, may annex the Property into City if and when the Property becomes contiguous to City. The annexation of the Property shall become effective as of the date that City records in the office of the Peoria County Recorder of Deeds a notice of City's election to annex the Property. No additional public hearings shall be required to

ANNEXATION AGREEMENT

annex the Property.

2. **Applicability:** This Agreement shall constitute a covenant running with the land and shall be binding upon all grantees, successors, and assigns of Smart. The recording of a notice of this Agreement shall constitute public notice to future owners of all or any portion of the Property, subdivided or not, that the Property may be annexed into City pursuant to the terms of this Agreement.
3. **Term of Agreement/Survivability of Obligations:** This Agreement shall expire and all duties and obligations detailed herein shall be terminated if the Property does not become contiguous to and annexed into City within 20 years of the effective date of this Agreement. If the Property does become contiguous and is annexed into City prior to 20 years from the effective date of this Agreement, the duties and obligations detailed herein shall survive such annexation.
4. **Zoning:** At the time of annexation, City shall zone the Property A (agricultural), or the then closest equivalent of the A zoning classification.
5. **Plat Approval:** City approves the preliminary plat of the Property attached hereto as Exhibit B and shall approve a final plat of the Property upon submission by Smart, provided such final plat is generally consistent with the attached preliminary plat and provided such final plat meets all requirements of a final plat except for those items that may be omitted as specifically detailed herein.
6. **Flood Plain:** Given the low density of the proposed development of the Property, City shall not require a flood plain study of the Property for the road construction shown on the preliminary plat. However, Smart shall provide City with a 100 year flood plain map. Smart shall mitigate any impact on the flood plain in accordance with the requirements of the Illinois Department of Natural Resources and FEMA. If the Property is annexed, any future development shall also meet all requirements of the City of Peoria.
7. **Erosion Control:** All construction and development within the Property shall be in accordance with all applicable erosion control ordinances. City shall not charge any permit fee in addition to fees charged by the County of Peoria..
8. **Infrastructure Construction:** As long as the Property is not divided into more than three separate parcels of at least forty (40) acres each, the Property may be developed in accordance with rural standards, i.e. roads must only meet the standards of the County of Peoria for rural road sections. As further example, City shall not require the construction or installation of curbs and gutters, storm sewers, sanitary sewers, or public water.
9. **Additional Development:** If any portion of the Property is divided to create more than three parcels on the Property, or if such division creates a parcel of less than forty (40) acres, any

ANNEXATION AGREEMENT

new development within such divided parcel shall meet all then applicable City ordinances and requirements for urban development within City.

10. **Bonding**: In the event any ordinance of City shall require bonding for completion of construction of improvements or infrastructure, no such bonding shall be required that is duplicative of bonding required by the County of Peoria.
11. **Compliance With Building Codes**: All construction of residences within the Property shall comply with the then applicable building codes of City.
12. **Compliance With Fire Regulations**: All construction and development within the Property shall comply with the then applicable City of Peoria fire and life safety regulations, except as hereinafter detailed. "All construction and development within the Property" shall, for the purpose of this Annexation Agreement, be defined as the construction of not more than one single family residential dwelling, plus any non-residential outbuildings, on not more than three platted lots of at least 40 acres each within the Property. Any new residences constructed on the Property must contain a residential sprinkler system. Such sprinkler system must be installed in accordance with the accepted standards for residential sprinkler systems as outline in N.F.P.A. 13D. Note those standards do permit design flexibility for the submission of an alternative system or components such as, but not limited to, a non-redundant sprinkler system. Any alternative system must be approved by the City of Peoria Fire Department. Any additional subdivision of the Property that creates more than three residential lots on the Property shall be permitted if such lots are serviced by the water mains and hydrants in accordance with City of Peoria and Illinois American Water Company requirements at that time.
13. **Prohibition Against Annexation**: During the term of this Agreement, Smart may not petition to annex into any other municipality.
14. **City Fees**: At the time the final plat for any subdivision developed within the Property is recorded, Smart shall pay to City all such inspection fees and recreation/education fees to which City is entitled.
15. **Infrastructure Improvement**: City may not require the upgrade of any roadways or infrastructure servicing the Property as a condition of approving additional subdivisions of the Property unless the existing road is incapable of handling projected traffic and such upgrade is consistent with the then existing policies of City.
16. **Processing**: Due to delays in processing this Annexation Agreement, the City of Peoria agrees to prioritize any further approvals and reviews, provided a completed application is submitted.

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17. **Topographic Information:** City shall not require the preparation or production of topographic information pertaining to the Property as a condition to approval of the final plat of the Property. However City, at City's sole option, may require that any further subdivision of portions of the Property comply with all applicable ordinances of City existing at the time of such subdivision.
18. **General Provisions:** The following general terms, conditions and definitions shall be applicable to the interpretation and construction of this Agreement.
 - a. **Applicable Law:** This Agreement 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 matters detailed herein shall be commenced in Peoria County, Illinois.
 - b. **Waiver:** The waiver of any right, term, or condition detailed in this Agreement, or the forbearance of enforcement of any right in the event of a breach of any term of this Agreement, shall not be deemed to be a waiver or release of any future right or cause of action arising from the commission of any additional act or breach of a similar or dissimilar nature. Any delay in enforcement of rights arising from a particular breach shall not act as a waiver of the right to pursue all available remedies. Waiver of a right, term or condition in regards to a particular individual or entity shall not entitle any other individual or entity to a similar waiver.
 - c. **Timeliness of the Performance:** Time shall be of the essence in regards to the performance of all duties, obligations, and payments detailed herein.
 - d. **Additional Documentation:** The parties hereto shall execute and deliver such additional documentation as may be necessary to further the purpose and intent of this Agreement as appropriate.
 - e. **Illegality of Terms:** If any provision, term or condition of this Agreement or a part thereof shall be deemed illegal and/or unenforceable due to statute, rule of law, or Court Order, the remaining provisions of this Agreement shall remain in full force and effect with the interpretation of this Agreement, in so far as legally possible, to be in accordance with the general intent demonstrated herein.
 - f. **Agreement Binding:** This Agreement shall inure to the benefit and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.
 - g. **Attorney's Fees:** In the event of a default in regards to the performance of any of the duties and obligations detailed herein, the non-defaulting party shall be entitled to recover all reasonable attorney's fees, Court costs or related charges incurred in regards to the curing of such default, the protection of rights detailed herein, or the

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pursuit of any remedies. Such fees shall be recoverable whether incurred for general counsel, negotiations, trial, or appeal.

- h. Captions: All captions or headings contained within this Agreement are for convenience and reference only, and same shall not be construed as a modification, limitation, or definition of the contents of any provision or paragraph contained herein.
- i. Duplication of Agreement: This Agreement may be executed in any number of duplicates or counterparts, each of which shall be deemed an original, but all of which shall comprise one in the same instrument.
- j. Gender: Reference to gender or singular or plural pronouns shall not be construed as a limitation of the terms of this Agreement.
- k. Notices: Any notice required to be given by the terms of this Agreement shall be in writing and shall be deemed to have been served the earlier of: a) the date of personal delivery; or b) three days after the deposit of said written notice into the United States Mail, provided same is sent by registered or certified mail, return receipt requested, properly stamped and addressed to the respective party at the address detailed herein, or such other reasonable address as may be periodically requested in writing, with said addresses detailed as follows:

CITY OF PEORIA
ATTN: CITY CLERK
419 Fulton
Peoria, IL 61602

Stephen J. and Kathryn M. Smart
4240 Northbrook Ct.
Peoria, IL 61614
- l. Entirety of Agreement: This Agreement represents the entire agreement of the parties hereto as of the date hereof. This Agreement is not modified or expanded by any oral representations or warranties, and any such prior oral representations or warranties are expressly waived if not detailed herein.

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In witness whereof, the parties have placed their hands and seals the day and year first written above.

CITY OF PEORIA

By: David P Ransburg
Its: Mayor

Stephen J. Smart
Stephen J. Smart
Kathryn M. Smart
Kathryn M. Smart

ATTEST:

By: Mary L. Haynes
Its: City Clerk

Examined and approved by:
Paula O. Prof
Corporate Counsel
Date of Signature: 8/18/04

STATE OF ILLINOIS)
) ss.
COUNTY OF PEORIA)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that David P. Ransburg, personally known to me to be the Mayor of the City of Peoria, and Mary L. Haynes, personally known to me to be the City Clerk of the City of Peoria, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Mayor and City Clerk, they signed and delivered the said instrument as Mayor and as City Clerk of said Municipal Corporation, and caused the seal of said Municipal Corporation to be affixed thereto, pursuant to authority given by the corporate authorities of the City of Peoria for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 18th day of August, 2004.

Nancy K. Schmitt
Notary Public



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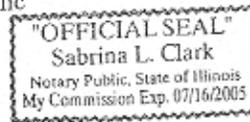
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STATE OF ILLINOIS)
) ss.
COUNTY OF PEORIA)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Stephen J. Smart and Kathryn M. Smart, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 28 day of July, 2004.

Sabrina Clark
Notary Public



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EXHIBIT A

LEGAL DESCRIPTION

A part of the Southwest Quarter of Section 22 and a part of the Northwest Quarter of Section 27, T9N., R7E., Fourth Principal Meridian, Peoria County, Illinois, more particularly bounded and described as follows, and bearings are assumed for the purpose of description only:

Beginning at an iron rod at the Northwest corner of said Section 27; thence S0°06'52"W along the East line of said Section 27, a distance of 245.23 feet to a point; thence S58°32'46"E along the Northerly right of way line of Illinois State Route 8, a recorded distance of 58.66 feet to a point; thence N0°06'52"E parallel to and 50' equidistant from said East line of Section 27, a distance of 275.38 feet to a point; thence S89°15'35"E along the South line of said Section 22, a recorded distance of 2650.84 feet to an iron rod at the South Quarter corner of said Section 22; thence N0°05'03"E along the East line of the Southwest Quarter of said Section 22, a recorded distance of 2494.43 feet to a point; thence N89°06'29"W parallel to and 175' equidistant from the North line of the Southwest Quarter of said Section 22, a recorded distance of 250.00 feet to a point; thence N0°05'03"E parallel to and 250' equidistant from said East line of the Southwest Quarter of Section 22, a recorded distance of 175.00 feet to a point; thence N89°06'29"W along said North line of the Southwest Quarter of Section 22, a recorded distance of 2462.30 feet to an iron rod at the West Quarter corner of said Section 22; thence S0°09'32"E along the West line of said Section 22, a recorded distance of 40.00 feet to a point; thence S89°06'29"E parallel to and 40' equidistant from said North line of the Southwest Quarter of Section 22, a recorded distance of 100.01 feet to a point; thence S0°09'32"E parallel and 100' equidistant from said West line of Section 22, a distance of 2511.50 feet to a point; thence N89°15'35"W parallel to and 125' equidistant from said South line of Section 22, a recorded distance of 100.01 feet to an iron rod; thence S0°09'32"E along said West line of Section 22, a recorded distance of 125.00 feet to the point of beginning, containing 159.601 acres, more or less.

FILE NO. 04-438-A

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EXHIBIT B
Preliminary Plat

RESOLUTION NO. 04-438-B
CITY OF PEORIA.

Peoria, Illinois August 17, 2004

A RESOLUTION APPROVING THE PRELIMINARY PLAT OF MOUNT CARMEL SUBDIVISION, A RESIDENTIAL DEVELOPMENT LOCATED NORTH OF IL ROUTE 8 (SOUTHPORT ROAD) AND SOUTH OF INTERSTATE 74 WITH AN ADDRESS OF 6627 SOUTHPORT ROAD.

WHEREAS, the City of Peoria has the authority to review subdivisions and developments within the limits of its corporate boundaries and within its mile and one half extra-territorial jurisdiction; and

WHEREAS, the City Planning Commission reviewed this request on July 21, 2004

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

Section 1. That the preliminary plat of Mount Carmel Subdivision, a residential development located at north of IL Route 8 and south of Interstate 74 with an address of 6627 Southport Road (Attachment A), generally described as a subdivision of part of the SW ¼ of Section 22, and part of the NW ¼ of Section 27, T9N, R7E of the 4th Principal Meridian is hereby approved.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS THIS 17th DAY OF August, 2004.

APPROVED:

David P. Ransel

Mayor

ATTEST:

Mary E. Haynes
City Clerk

EXAMINED AND APPROVED
[Signature]
Senior Staff ~~COMMISSIONER~~
Attorney

