



United City of Yorkville

800 Game Farm Road

Yorkville, Illinois 60560

Telephone: 630-553-4350

www.yorkville.il.us

PLANNING & ZONING COMMISSION

AGENDA

Wednesday, February 8, 2017

Yorkville City Hall Council Chambers

800 Game Farm Road

Meeting Called to Order: 7:00 p.m.

Roll Call:

Previous meeting minutes: January 18, 2016

Citizen's Comments

Public Hearings

1. **PZC 2017-01** Dover Development, LLC, petitioner, has filed an application with the United City of Yorkville, Kendall County, Illinois, requesting authorization of an amendment to the existing Cannonball Trails Planned Unit Development and Annexation Agreement for the purpose of constructing a new two-story assisted living with memory care facility. The petitioner seeks to amend the previously approved exhibits in the Planned Unit Development to incorporate a revised conceptual site plan and to allow for all uses that are currently permitted in the B-1 Local Business District, B-2 Retail Commerce Business District and O Office District, specifically and without limitation to assisted living and memory care, adult daycare facilities and medical office uses. Additional requested amendments to the Planned Unit Development and Annexation Agreement relate to expiration of recapture payments, requirements for certain public infrastructure improvements and site signage.

Old Business

New Business

1. **PZC 2017-01** Dover Development, LLC, petitioner, has filed an application with the United City of Yorkville, Kendall County, Illinois, requesting authorization of an amendment to the existing Cannonball Trails Planned Unit Development and Annexation Agreement for the purpose of constructing a new two-story assisted living with memory care facility. The petitioner seeks to amend the previously approved exhibits in the Planned Unit Development to incorporate a revised conceptual site plan and to allow for all uses that are currently permitted in the B-1 Local Business District, B-2 Retail Commerce Business District and O Office District, specifically and without limitation to assisted living and memory care, adult daycare facilities and medical office uses. Additional requested amendments to the Planned Unit Development and Annexation Agreement relate to expiration of recapture payments, requirements for certain public infrastructure improvements and site signage.

- Action Item

Amended Planned Unit Development (PUD) – Final Plat

Additional Business

1. City Council Action Updates

The following items were presented to the City Council on January 24, 2017.

- a. **PZC- 2016-05** Ordinance amending the Yorkville Zoning Ordinance by amending the definition of Automobile Repair; adding the definition of Semi-Truck and Semi-Truck Repair and adding them as permitted uses in the M-1 and M-2 Manufacturing Districts; amending the definitions of Commercial School and School; and adding Legal Nonconforming Agricultural Uses to those uses not subject to elimination by abandonment or amortization.

Action Item – Motion approved, 7 ayes; 0 no

Adjournment

SPECIAL PLANNING & ZONING COMMISSION

City Council Chambers

800 Game Farm Road, Yorkville, IL

Wednesday, January 18, 2017 7:00pm

Planning & Zoning Commission Members in Attendance:

Reagan Goins

Jeff Olson

Deb Horaz

Bill Gockman

Richard Vinyard

Randy Harker

Absent: Don Marcum

Other City Staff

Krysti Barksdale-Noble, Community Development Director

Jason Engberg, Senior Planner

Other Guests

Christine Vitosh, Court Reporter

Meeting Called to Order

Planning and Zoning Commission Chairman Randy Harker called the meeting to order at 7:00pm.

Roll Call

Roll call was taken and a quorum was established.

Previous Meeting Minutes November 9, 2016

The minutes of the meeting were approved on a motion and second by Commissioners Vinyard and Goins, respectively.

Roll call: Harker-yes, Goins-yes, Horaz-yes, Vinyard-yes, Olson-yes, Gockman-yes.

Passed 6-0.

Citizen's Comments None

Public Hearings

The following two Public Hearings were opened at 7:03pm on a motion by Ms. Horaz and second by Mr. Vinyard. Roll call: Horaz-yes, Vinyard-yes, Olson-yes, Gockman-yes, Harker-yes, Goins-yes. Passed 6-0.

- 1. PZC 2016-04 The United City of Yorkville, Kendall County, Illinois, petitioner, is proposing a text amendment to Chapter 13: Manufacturing Districts, to revise the performance standards section to reference the building regulations as the new noise ordinance standards.**

2. **PZC 2016-05 The United City of Yorkville, Kendall County, Illinois, petitioner, is proposing a text amendment to several Chapters of the United City of Yorkville Zoning Ordinance including Chapter 2: Definitions; Chapter 6: Permitted and Special Uses; and Chapter 15: Nonconforming Buildings, Structures, and Uses. The amendments to Chapter 2 define a semi-truck, semi-truck repair, and clarify the commercial school/trade school definition. The Chapter 6 amendment will provide that semi-truck repair is only allowed as a permitted use in the M-1 Manufacturing District and M-2 Manufacturing District. The Chapter 15 amendment will provide clarification for nonconforming land uses within the City.**

(See Court Reporter's Transcripts)

The Hearings concluded at 7:22pm on a motion by Commissioners Vinyard and Goins.
Roll call: Vinyard-yes, Olson-yes, Gockman-yes, Harker-yes, Goins-yes, Horaz-yes.
Passed 6-0.

Old Business None

New Business

1. **PZC 2016-04** Text Amendment (see description above)

Action Item

Text Amendment

A motion was made by Mr. Vinyard as follows: “In consideration of testimony presented during a Public Hearing on January 18, 2017, the Planning and Zoning Commission recommends approval to the City Council of a request to amend the performance standards regarding noise contained in Section 10-13C-2 of the United City of Yorkville Zoning Ordinance as presented by staff in a memorandum dated January 11, 2017.”

Motion seconded by Ms. Horaz.

Roll call: Olson-yes, Gockman-yes, Harker-yes, Goins-yes, Horaz-yes, Vinyard-yes.
Motion approved 6-0.

2. **PZC 2016-05** Text Amendment (see description above)

Action Item

Text Amendment

A motion was made by Mr. Vinyard as follows: “In consideration of testimony presented during a Public Hearing on January 18, 2017, the Planning and Zoning Commission recommends approval to the City Council of a request to amend the United City of Yorkville Zoning Ordinance as presented by staff in a memorandum dated January 11, 2017.” Motion seconded by Mr. Gockman.

Roll call: Gockman-yes, Harker-yes, Goins-yes, Horaz-yes, Vinyard-yes, Olson-yes.
Motion passed 6-0.

Additional Business

1. Year in Review

- a. Comprehensive Plan Updates

In a memo and verbal update to the Planning and Zoning Commission, Ms. Noble presented a summary of departmental actions in 2016 and information about the

Comprehensive Plan and implementation strategies. She also noted that Mr. Engberg and a part-time building inspector had been hired during the year. Ms. Noble will present an annual report at the start of each new year.

Adjournment

There was no further business and the meeting was adjourned at 7:43pm on a motion by Mr. Olson.

Respectfully submitted by
Marlys Young, Minute Taker

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5 UNITED CITY OF YORKVILLE
6 YORKVILLE, ILLINOIS
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9 SPECIAL PLANNING AND ZONING COMMISSION MEETING
10 PUBLIC HEARING
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15 800 Game Farm Road
16 Yorkville, Illinois
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18
19 Wednesday, January 18, 2017

20 7:00 p.m.
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1 PRESENT:

2 Mr. Randy Harker, Chairman,

3 Mr. Bill Gockman,

4 Ms. Reagan Flavin Goins,

5 Ms. Deborah Horaz,

6 Mr. Jeff Olson,

7 Mr. Richard Vinyard.

8
9 ALSO PRESENT:

10 Ms. Krysti Noble, Community Development

11 Director,

12 Mr. Jason Engberg, Senior Planner,

13 Ms. Marlys Young, Minute Taker.

14 - - - - -

1 (The following
2 proceedings were had in
3 public hearing:)

4 CHAIRMAN HARKER: Moving down to the
5 public hearing portion, tonight there are two
6 public hearings scheduled for tonight's Planning
7 and Zoning Commission meeting.

8 The purpose of the hearings are to
9 invite testimony from members of the public
10 regarding proposed requests that are being
11 considered before the Planning and Zoning
12 Commission tonight.

13 The public testimony from persons
14 present who wish to speak may be in favor or
15 against the request, or have questions for the
16 petitioners regarding the requests being heard.

17 Those people wishing to testify are
18 asked to speak clearly, one at a time, state your
19 name, who you represent, if anyone. You are also
20 asked to sign in at the podium, and if you are
21 planning to speak tonight as a petitioner or
22 member of the public, please stand and raise your
23 right hand and repeat after me.

24 Nobody is here. Nobody is present.

1 Okay.

2 So moving on now, we're going to
3 hear the petitioner, staff, and move on, so can I
4 get a motion to open the public hearing on
5 petition number PZC 2016-04 and PZC 2016-05?

6 MS. HORAZ: So moved.

7 MR. VINYARD: Second.

8 CHAIRMAN HARKER: Awesome. Roll call
9 vote on the motion.

10 MS. YOUNG: Horaz.

11 MS. HORAZ: Yes.

12 MS. YOUNG: Vinyard.

13 MR. VINYARD: Yes.

14 MS. YOUNG: Olson.

15 MR. OLSON: Yes.

16 MS. YOUNG: Gockman.

17 MR. GOCKMAN: Yes.

18 MS. YOUNG: Harker.

19 CHAIRMAN HARKER: Yes.

20 MS. YOUNG: And Goins.

21 MS. GOINS: Yes.

22 CHAIRMAN HARKER: Okay. PZC 2016-04,
23 the United City of Yorkville, Kendall County,
24 Illinois, petitioner, is requesting a text

1 amendment to Chapter 13, Manufacturing Districts,
2 to revise the performance standards section to
3 reference the building regulations as the new
4 noise ordinance standards.

5 MR. ENGBERG: All right. I'll give a
6 little quick summary of what's been going on. So
7 the City's noise ordinance is getting updated.
8 This is not -- The actual noise ordinance is not
9 in the Zoning Ordinance, it's in the Public
10 Health and Safety Code, but -- So overall in 2014
11 the City took it upon ourself to update some of
12 the standards. It was rewritten based on just
13 staff and surrounding municipalities due to there
14 was a proposed downtown amphitheater, so it was
15 in preparation to make sure there wasn't too much
16 noise there.

17 In 2015 there had been some
18 complaints by nearby residents from Pinheadz bar
19 about excessive noise and vibration. Staff tried
20 to work with Pinheadz and the neighbors with site
21 visits, trying to see what the problem was, and
22 the readings outside of the area were within the
23 City's noise ordinance, so -- but there was still
24 clearly lots of vibration and noise, so it didn't

1 really seem right that everybody was kind of
2 getting affected by this, so the City then
3 searched to retain a city consultant, Soundscape
4 Engineering, which is -- they provide noise
5 ordinance, things like that. They are
6 consultants basically that look into noise.

7 So Soundscape Engineering was
8 retained to do a full study on that certain issue
9 at Pinheadz bar and to help us rewrite the noise
10 ordinance.

11 Attached to the memo is their
12 complete report, if you want to read it. They
13 proposed several different changes to the noise
14 ordinance.

15 I won't go in detail on all of them,
16 but it kind of changes decibel level for uses,
17 added a table and additions and subtractions to
18 certain types of noise, so that pounding,
19 pulsating noise, it has to be lower than
20 sometimes just other noise, and your next door
21 resident, there is modifiers. So basically this
22 is kind of the story of that ordinance.

23 What we're requesting here is in our
24 performance standards in the Manufacturing

1 District there are regulations regarding noise,
2 so we have amended them to reference the new
3 incoming noise ordinance, so that's what we're
4 requesting as a change, is to -- everything in
5 that performance standard regarding noise and
6 vibration, a lot of it was changed just to
7 reference the new noise ordinance so that we
8 would be consistent between zoning and public
9 health and safety.

10 MR. OLSON: Is the change in this affect
11 anything that Pinheadz has to do currently, do
12 they have to come into compliance?

13 MS. NOBLE: Well, this amendment is the
14 precursor to one we are going to adopt for those
15 changes, so once those changes are adopted,
16 because it's in the public -- Public Health and
17 Safety Code, which is administered through the
18 police department, the Public Safety Committee
19 has to review it at committee level and then it
20 will go to City Council, so once it's approved by
21 City Council, then they --

22 MR. OLSON: Then Pinheadz has to do
23 something.

24 MS. NOBLE: Yes. But in the interim

1 what the City has done, we did engage Soundscape
2 Engineering to put a proposal together to do a
3 specific sound study on that site, not just to
4 change our complete ordinance.

5 We engaged Pinheadz to see if they
6 wanted to cost share in that, so we're working
7 through that. They have made some interior
8 modifications to address some of the noise from
9 the machinery, which is in a metal portion of the
10 building, which is like maybe 10 or 15 feet from
11 the adjoining residential property lines.

12 CHAIRMAN HARKER: That's very close.

13 MS. NOBLE: It's very close. It's very
14 close. We explored maybe heightening the fence,
15 but there are some other building -- probably
16 more sound walls can -- you know, possibilities,
17 heightened parapet wall that can be done, but we
18 won't know until the sound study comes back
19 because we're not quite sure if it's the DJ
20 component of the facility, because they do have
21 DJ and live bands there, or if it's the actual
22 machinery, so we're kind of at a loss.

23 I was at the site and they had the
24 DJ going and, I mean, he was playing some very

1 loud thumping bass and I could not hear it on the
2 outside, but the adjacent homes could feel the
3 vibration, so that's where the issue is.

4 Our noise meters go out there and
5 they're not hitting the mark, but yet the homes
6 next to it are feeling the vibration.

7 There was also -- Jeff Olson brought
8 up a good point prior to the meeting about the
9 vibration and sound. There are exemptions that
10 we are proposing, not in this section that you
11 guys are looking at, but just as an FYI, when we
12 adopt the new sound ordinance, there are
13 exemptions, and one of them is for construction
14 activity because you're going to hit that
15 vibration, and if you see on your guides, Jeff
16 can explain a little bit more what this is about.

17 MR. OLSON: So I'm in demolition and we
18 get hollered at all the time for causing
19 vibrations on neighboring structures, so this
20 form that's printed out on all your tables is the
21 seismic email I get every day every time one of
22 my guys trips a sensor on a site, and looking at
23 the data from the old ordinance, the limits that
24 they were setting, if you look at, for instance,

1 right in the center of the page is a peak vector
2 sum, 0.343 inches per second on there.

3 I'm no scientist, I can't tell you
4 what that means, but what I do know is that is
5 just me running a machine, Caterpillar excavator,
6 across the back of my site, just driving and I
7 tripped this vibration monitor 25, 30 feet away,
8 so what I was trying to explain to Krysti was if
9 we adopt these standards in Table 15, which are
10 .10, .12, .20, .24, just by driving equipment
11 adjacent to these areas, we're already exceeding.
12 Doesn't make sense.

13 So if in the future someone were
14 want to wreck a building in downtown Yorkville
15 where you do have buildings sitting right up
16 against adjacent buildings, you're going to trip
17 that monitor by even coming on the site, and so
18 it would make it cost prohibitive to actually
19 wreck anything in downtown Yorkville.

20 Conventionally you'd have to pay --
21 instead of a \$200,000 job, it would be a million
22 dollar job. That doesn't help anybody who is
23 building in downtown.

24 MS. NOBLE: So how we plan to address

1 this is in the exemption, we will make sure that
2 we note not just noise, but vibration.

3 CHAIRMAN HARKER: Let's go to public
4 hearing number two, which is PZC 2016-05, the
5 United City of Yorkville, Kendall County,
6 Illinois, petitioner, is proposing a text
7 amendment to several chapters of the United City
8 of Yorkville Zoning Ordinance, including
9 Chapter 2, Definitions; Chapter 6, Permitted and
10 Special Uses; and Chapter 15, Non-Conforming
11 Buildings, Structures and Uses.

12 The amendments to Chapter 2 define a
13 semi truck, semi truck repair, and clarify the
14 commercial school/trade school definition.

15 The Chapter 6 amendment will provide
16 that semi truck repair is only allowed as a
17 permitted use in the M-1 Manufacturing District
18 and M-2 Manufacturing District.

19 The Chapter 15 amendment will
20 provide clarification for non-conforming land
21 uses within the City.

22 MR. ENGBERG: All right. And me and
23 Krysti are going to give you an update and just
24 kind of quickly go over what we're doing here.

1 So over the course of, you know, the
2 time of the year, several little things will come
3 up that could use clarification, a little more
4 clarity, in the Zoning Ordinance, so things that
5 are ambiguous, you know, we try and make a little
6 more clear.

7 The first, semi truck and semi truck
8 repair, we're proposing to add a definition for
9 semi truck and semi truck repair. Currently we
10 do not have a definition for an automobile, we
11 have a definition for motor vehicle, which
12 includes basically anything that's pulled by a
13 motor, and then there is automobile repair,
14 talking about engine main things being repaired,
15 cars, things like that, but it doesn't
16 specifically call out semi truck.

17 So automobile repair is allowed in
18 the Business Districts, you know, your Tuffy's,
19 your oil change places, things like that. It's
20 automobile repair.

21 What we were having is a possibility
22 of a semi truck repair being done in a business
23 district, and it doesn't really -- it's not
24 really very consistent with what that district's

1 for, for large semis to be in business districts,
2 so what we were proposing is to define what a
3 semi truck is, define semi truck repair, and then
4 allow it in the M-1 and M-2 districts where semi
5 trucks typically go. So that is our first
6 proposal for that.

7 MS. NOBLE: Historically, semi truck
8 repair has occurred in Manufacturing Districts
9 and we haven't had an incident where semi truck
10 repair was occurring in a Business District until
11 we came upon a business that had not come to the
12 City to get an occupancy permit. We got a
13 complaint and we went out and we investigated.

14 What was unclear looking at that
15 current definition of automobile repair, adding
16 the -- having determined there were trailers,
17 there was some discussion that that could be
18 misinterpreted by an individual to say well, it's
19 a semi trailer repair business, so that's why
20 we're looking to clarify this and make sure that
21 these larger sized repairs happen in the
22 appropriate Manufacturing District.

23 MR. OLSON: The company is currently in
24 Yorkville that repair semis and semi trailers,

1 Illinois Truck Maintenance, on 71 and 47. I know
2 there is another guy down --

3 MS. NOBLE: On 126.

4 MR. OLSON: Yes. None of them are
5 affected by this because they're outside, right?

6 MS. NOBLE: They're in the M-1. They
7 are actually in the M-1.

8 CHAIRMAN HARKER: What about the one
9 that's...

10 MS. NOBLE: No, no, that's different.

11 CHAIRMAN HARKER: That's a different
12 business that shouldn't be in there, right?

13 MS. NOBLE: That one was out in the
14 county, so that was our county review.

15 CHAIRMAN HARKER: Oh, okay.

16 MS. NOBLE: But that is something that's
17 in our mile-and-a-half planning area, so if we
18 ever were to annex that property or our
19 boundaries expand, we want to make sure those
20 types of uses don't occur in areas.

21 And that was an ag use, but what
22 prompted this was actually a user that had an
23 accessory building on the lot, and it was very
24 close again to residential, and with these semi

1 truck repairs, it brought about a lot of
2 complaints, so we went out there and that's when
3 we discovered, (A), you don't have an occupancy
4 permit, and (B), you wouldn't be allowed here
5 anyway.

6 MS. HORAZ: So are we changing this for
7 that situation?

8 MS. NOBLE: We're just clarifying it,
9 making it more clear, that if anyone in the
10 future -- say I'm gone or Jason is gone, that
11 they know our Zoning Ordinance, the reference to
12 trailers is not to semi truck repair in the
13 Business District, it's only allowed in
14 Manufacturing.

15 CHAIRMAN HARKER: Excellent.

16 MR. ENGBERG: Do you want to cover trade
17 schools?

18 MS. NOBLE: Sure. So if you recall,
19 last year we approved a special use for an
20 alternative holistic school to go in the
21 Manufacturing District, so it was very clear at
22 that time that the user was using the space for
23 classroom instructional type of use and not
24 including the traditional type of amenities that

1 you would find in a school, a typically zoned
2 school, like a gymnasium or a cafeteria, so they
3 were just renting space to do the structured
4 classroom activities.

5 What we've come across is the way
6 that that definition was written originally is
7 that the inclusion of the word "academic" opens
8 the door for traditional schools now to reside in
9 a Manufacturing District or a Commercial
10 District, so we wanted to clarify that and then
11 make a distinction by the type of activities or
12 amenities that you would find.

13 So say if there is a small
14 homeschool-based group of parents that want to
15 rent out space in a Manufacturing District or in
16 a Business District, an office or two, to do
17 classroom instruction, they can do that under
18 this definition, but if a traditional school
19 finds a business building and then wants to
20 occupy it as a school, then they can't do that.

21 The impetus behind this is that
22 commercial areas should be maintained for
23 commercial uses, tax-paying uses --
24 tax-generating uses rather, than to be used by a

1 school that could then be exempt from that and
2 take valuable land off the tax rolls. So that
3 was the clarification.

4 MR. OLSON: The only question I had was
5 in the Zoning Ordinance, the use of the word
6 "auditorium". I wondered about that.

7 If you had a commercial trade
8 school, what's the difference between a large
9 group instruction room, where you're actually
10 teaching them, and an auditorium, trying to
11 exempt certain things? Make sure it's not -- I
12 can clearly see gymnasium used for recreational
13 activities, but I wondered about the word
14 "auditorium".

15 MS. NOBLE: Sure. So auditorium was
16 called out for two reasons. Outside of the
17 Zoning Ordinance, in the Building Code, you have
18 uses. If you are in construction, you understand
19 that.

20 You have A-use groups, which are
21 your assembly-type uses, and then you have your
22 B-type uses, which are businesses. Auditoriums
23 typically fall under that A class.

24 Where you have a high capacity of

1 individuals in an area like this, it would add a
2 certain threshold, require sprinkling, egress and
3 ingress changes, whereas if it was a classroom
4 setting --

5 MR. OLSON: It's a different one.

6 MS. NOBLE: Yeah. The capacity isn't as
7 large, and then you have different regulations
8 for that. But I will look up if we define it in
9 our Zoning Ordinance.

10 MR. OLSON: The way you described it
11 makes sense.

12 MS. NOBLE: And we do not have a
13 definition, so when we don't have a definition,
14 our Zoning Ordinance tells us to then fall back
15 on the most current version of the Webster's
16 dictionary for that word.

17 CHAIRMAN HARKER: Awesome. Anything
18 else?

19 MR. ENGBERG: For non-conforming land
20 uses, this will be our final recommendation.
21 Currently the situation is there are a lot of
22 agricultural lands which may be subject to
23 elimination upon the expiration of an annexation
24 agreement, so we have several annexation -- many

1 annexation agreements within the City that were
2 agricultural land, it was a plan that was
3 approved, but then nothing happened, so that
4 agricultural land is a legal non-conforming use.

5 Now, in some of these annexation
6 agreements there is language saying well, if it's
7 still agricultural, that's fine, you know, it's
8 okay, but there are some that aren't, so upon the
9 expiration of an annexation agreement, which is
10 typically 20 years, it's possible that that
11 agricultural land then would have to conform to
12 whatever the zoning was, so we just wanted to add
13 this exemption to say okay, 20 years comes down
14 the road and you've been a farm for 50 years, you
15 don't have to all of a sudden stop work. That's
16 pretty much the purpose behind that
17 recommendation.

18 MS. NOBLE: And what will happen, say we
19 didn't have this clause on a property that didn't
20 have in their annexation agreement that language,
21 we would then say all right, you're zoned
22 residential, you have to stop farming and utilize
23 this land for residential use only or you can be
24 fined, or then you can come back and request an

1 extension, but you only get two years, so every
2 two years you have to keep coming back, so it
3 becomes an administrative issue, and it's not
4 clear to any future buyer that they would have to
5 do that.

6 CHAIRMAN HARKER: Since all the public
7 testimony regarding these requests have been
8 taken, may I have a motion to close the taking of
9 testimony in this public hearing?

10 MR. VINYARD: So moved.

11 MS. GOINS: Second.

12 MR. OLSON: Second.

13 CHAIRMAN HARKER: Awesome. Roll call
14 vote on the motion to close, please.

15 MS. YOUNG: Vinyard.

16 MR. VINYARD: Yes.

17 MS. YOUNG: Olson.

18 MR. OLSON: Yes.

19 MS. YOUNG: Gockman.

20 MR. GOCKMAN: Yes.

21 MS. YOUNG: Harker.

22 CHAIRMAN HARKER: Yes.

23 MS. YOUNG: Goins.

24 MS. GOINS: Yes.

1 MS. YOUNG: And Horaz.

2 MS. HORAZ: Yes.

3 MS. YOUNG: Thank you.

4 CHAIRMAN HARKER: Awesome.

5 (Which were all the
6 proceedings had in the
7 public hearing portion
8 of the meeting.)

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\$	7:00 [1] - 1:20	16:12 amphitheater [1] - 5:14 AND [1] - 1:9 annex [1] - 14:18 annexation [6] - 18:23, 18:24, 19:1, 19:5, 19:9, 19:20 annexed [1] - 22:10 anyway [1] - 15:5 applies [1] - 22:11 appropriate [1] - 13:22 approved [3] - 7:20, 15:19, 19:3 area [3] - 5:22, 14:17, 18:1 areas [3] - 10:11, 14:20, 16:22 assembly [1] - 17:21 assembly-type [1] - 17:21 assume [1] - 22:13 attached [1] - 6:11 auditorium [2] - 17:10, 17:15 auditorium [2] - 17:6, 17:14 auditoriums [1] - 17:22 automobile [5] - 12:10, 12:13, 12:17, 12:20, 13:15 awesome [4] - 4:8, 18:17, 20:13, 21:4	13:1, 13:11, 13:19, 14:12, 16:19 Business [4] - 12:18, 13:10, 15:13, 16:16 businesses [1] - 17:22 buyer [1] - 20:4	classroom [4] - 15:23, 16:4, 16:17, 18:3 clause [1] - 19:19 clear [4] - 12:6, 15:9, 15:21, 20:4 clearly [3] - 3:18, 5:24, 17:12 close [6] - 8:12, 8:13, 8:14, 14:24, 20:8, 20:14 Code [3] - 5:10, 7:17, 17:17 coming [2] - 10:17, 20:2 commercial [4] - 11:14, 16:22, 16:23, 17:7 Commercial [1] - 16:9 Commission [2] - 3:7, 3:12 COMMISSION [1] - 1:9 Committee [1] - 7:18 committee [1] - 7:19 Community [1] - 2:10 company [1] - 13:23 complaint [1] - 13:13 complaints [2] - 5:18, 15:2 complete [3] - 6:12, 8:4, 22:7 compliance [1] - 7:12 component [1] - 8:20 computer [1] - 22:7 computer-generated [1] - 22:7 conform [1] - 19:11 Conforming [1] - 11:10 conforming [3] - 11:20, 18:19, 19:4 considered [1] - 3:11 consistent [2] - 7:8, 12:24 construction [2] - 9:13, 17:18 consultant [1] - 6:3 consultants [1] - 6:6 control [1] - 22:15 conventionally [1] - 10:20 copies [2] - 22:12, 22:14 correct [1] - 22:7 cost [2] - 8:6, 10:18 Council [2] - 7:20, 7:21 county [2] - 14:14 COUNTY [1] - 22:2 County [2] - 4:23, 11:5
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Memorandum

To: Planning and Zoning Commission
From: Krysti J. Barksdale-Noble, Community Development Director
CC: Bart Olson, City Administrator
Jason Engberg, Senior Planner
Date: February 2, 2017
Subject: **PZC 2017-01 – Cedarhurst Living, LLC (AA & PUD Amendment)**
Former Cannonball Trails – NE Corner of US 34 & Cannonball Trail

Background & Request:

The petitioner, Dover Development, LLC, has filed an application with the United City of Yorkville, Kendall County, Illinois, requesting authorization of an amendment to the existing Cannonball Trails Planned Unit Development (PUD) and Annexation Agreement Amendment for the purpose of constructing a new two-story assisted living with memory care facility at the northeast corner of US 34 (Veterans Parkway) and Cannonball Trails.

The original annexation agreement for the approximately 6.7-acre property was approved in August 2000 and was subsequently amended in July 2008 via Ord. 2008-66. In the 2008 amendment, the prior owner of the property was granted approval for a multi-lot commercial/retail development known as Cannonball Trails and rezoned "PUD". Although a Final Plat was approved by the City Council in August 2009, it was never recorded with the county and the property has remained undeveloped since.



The current proposal seeks to amend the previously approved exhibits of the existing Cannonball Trails Planned Unit Development (PUD) to incorporate a revised preliminary site plan and to allow for all uses currently permitted in the B-1 Local Business District, B-2 Retail Commerce Business District and O Office District, such as assisted living and memory care operations, adult daycare facilities and medical

office business to be authorized. Additionally, with regards to the original annexation agreement, Dover Development, LLC is also seeking approval to amend the provisions related to the expiration of the recapture payments, requirements for certain public infrastructure improvements and site signage.

Per the City's Zoning Ordinance, the Planning and Zoning Commission (PZC) is authorized to review and make recommendations regarding the proposed amended PUD plan, while the City Council has the duty of considering the proposed Annexation Agreement amendment. A public hearing before the PZC for the amended PUD plan is scheduled for February 8, 2017 and a public hearing before the City Council regarding the Annexation Agreement amendment is scheduled for the February 14, 2017 meeting. It is anticipated the City Council will make a final determination on both requests at their regularly scheduled meeting on February 14, 2017.

Proposed Amended Plan

The petitioner, Dover Development, LLC, has prepared an amended preliminary PUD plan for the subject property which illustrates a 73-unit, two-story assisted living and memory care facility situated at the northeast corner of US 34 (Veterans Parkway) and Cannonball Trails. A dry detention basin is proposed along the southern property line adjacent to US 34 (Veterans Parkway) with a future office building planned north of main structure. As proposed, the approximately 65,000 square foot building's main entrance will face westward and have vehicular access to the site off of Cannonball Trail. The access drive will loop underneath the structures porte-cochere and connect to two (2) separate off-street parking lot areas. A future right-in/right-out entrance is also proposed to the north of the site with access to additional future office parking. A thirty-foot (30') landscape buffer is also provided along the north and east property lines.

Traffic/Parking

As mentioned above, off-street parking will be provided on lots to the north and south of the building with additional undefined parking areas illustrated for the future office building. A total of 46 parking stalls are proposed to accommodate the assisted living and memory care facility which exceeds the Zoning Code's minimum parking requirements for "elderly care uses" of 0.5 parking spaces per dwelling unit or 37 spaces.

In the originally approved commercial/retail PUD plan, there was a requirement of the developer to make improvements to the intersection of Cannonball Trails and US 34 (Veterans Parkway) including the construction of a right-turn lane on the east side of Cannonball Trail along the frontage of the property. This public improvement to the roadway was required due to the projected increase in traffic generated to/from the previously approved commercial land use. However, upon reviewing the petitioner's revised site plan and proposed assisted living and memory care land use, it is the City Engineer's finding that the previously required right-turn lane on Cannonball Trail is no longer necessary. The existing Cannonball Trail roadway configuration and capacity is sufficient to accommodate the minimal increase in traffic generated from the proposed and future uses.

Additionally, the proposed Illinois Department of Transportation's (IDOT) roadway widening of US 34 (Veterans Parkway) will not increase the state right-of-way along the frontage of this property.

Stormwater Management/Wetlands

The proposed dry detention basin area is ideally located in the southern area of the site along US 34 (Veterans Parkway), as the property's natural drainage pattern flows towards the southeast corner where a storm sewer currently exists. The detention basin will be designed to adequately capture the increase in volume of stormwater run off as a result of the proposed uses on the property. A stormwater permit will need to be approved by the City engineer and a dormant/back up Special Service Area (SSA)

established, per City ordinance, to ensure continued future maintenance should the property owner or its successor fail to do so. Finally, all available wetland inventory maps and regulatory floodplain maps were reviewed, and no issues were identified.

Public Utilities

The property is immediately accessible to public sewer and water via an existing 16" water main located on the western frontage of Cannonball Trail. An existing 15" sanitary sewer line is also located along the Cannonball Trail and runs length of the southern boundary of the subject property. Per the original conditions of the annexation agreement, the development will be required to annex and connect to the Yorkville Bristol Sanitary District (YBSD) service for which adequate capacity exists.

Existing Conditions:

The existing zoning and land use for properties surrounding the subject property are as indicated below:

	Zoning	Land Use
North	R-3 (Kendall County)	Single Family Residential
South	US 34 (Veterans Parkway) and B-2 Retail Commerce Business	US Highway/ Major Arterial Roadway Cimarron Ridge Commercial Dev.
East	R-3 (Kendall County)	Undeveloped Land
West	Cannonball Trail Planned Unit Development	Minor Arterial Roadway Kendall Marketplace Retail Dev.

Comprehensive Plan:

The 2016 Comprehensive Plan Update designates this property as "Suburban Neighborhood" which is defined typically by single-family detached residential homes in typical conventional subdivision layouts. However, the 2016 Comprehensive Plan states that Yorkville has a significant senior and active adult housing need and such service-oriented housing types like assisted living care must be bolstered in the residential market to address this underserved population. Therefore, staff supports the proposed amended PUD and its consistency with the proposed underlining zoning of B-2 (per the Zoning Ordinance, nursing home/rest home is an identified permitted land use).

Proposed PUD Variances:

As part of the PUD amendment request, the Petitioner is seeking relief from Section 10-20-9 and 10-20-9-B of the Zoning Ordinance regarding free-standing monument signage and temporary signage, respectively. The petitioner is proposing three (3) monument signs on the PUD Plan sized up to 15' wide and up to 10' tall. Additionally, the petitioner is seeking approval for a temporary development sign on the property with an overall size of 6' x 8'.

Per Section 10-20-9 of the Zoning Ordinance, on lots three (3) acres or larger that have a street frontage in excess of 800' with two (2) entrances/exits at least 600' apart may have two (2) freestanding business signs 64 square feet or less in area and 12 feet or less in height on each street frontage. Additionally, in Section 10-20-9-B, temporary signs are allowed a maximum sign area of 32 square feet with a maximum height of 5 feet. Therefore, the proposed three (3) ground-mounted signs for this property will require variances regarding number, size and location. A variance is also required for the temporary sign regarding size and height.

Staff is supportive of the requested sign variances with the stipulation that the proposed three (3) ground mounted signs will be constructed in phases. The first phase will consist of no more than two (2) signs located along Cannonball Trail, just south of the main entrance driveway. The second phase will

consist of the remaining one (1) sign, located along Cannonball Trail north of the main entrance driveway and just south of the future right-in/right-out access drive, to be installed after the issuance of as building permit and as part of the construction of the proposed future building.

Special Use Criteria:

The subject property already has an existing Planned Unit Development (PUD), but the proposed revised land plan requires approval of an amendment. Since a PUD is a type of Special Use, the criteria for a Special Use per Section 10-4-9F of the City's Zoning Ordinance should be considered as part of this request. Therefore, according to the Zoning Ordinance, the following standards must be met:

1. The establishment, maintenance or operation of the special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare.
2. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage or other necessary facilities have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the city council pursuant to the recommendations of the plan commission.

The applicant has provided written responses to these special use standards as part of their application and requests inclusion of those responses into the public record at the February 8, 2017 Planning and Zoning Commission meeting.

Staff Comments/Recommendation:

The proposed Planned Unit Development Amendment and amended final plat for a new assisted living and memory care facility is fully supported by staff. The current bulk regulations (setbacks, lot coverage, building height) are being met and the proposed use is consistent with the current comprehensive plan as it provides an identified community need.

Based upon the review of the proposed plan amendment, **staff recommends the following variances and conditions to the petition:**

1. Relief from Section 10-20-9 of the Zoning Ordinance regarding free-standing monument signage to permit three (3) monument signs on the property sized up to 15' wide and up to 10' tall which exceeds the permitted number, overall size and location for such signage on business zoned properties, subject to the signs being constructed in phases.
 - a. The first phase will consist of no more than two (2) signs located along Cannonball Trail, just south of the main entrance driveway. The second phase will consist of the remaining one (1) sign, located along Cannonball Trail north of the main entrance driveway and just south of the future right-in/right-out access drive, to be installed after the issuance of as building permit and as part of the construction of the proposed future building.

2. Relief from Section 10-20-9-B of the Zoning Ordinance regarding temporary signage to permit a temporary development sign on the property with an overall size of 6' x 8' which exceeds the maximum overall size and height for such signage on business zoned properties.
3. Approval by the City Engineer of preliminary and final engineering plans.
4. Approval by the City staff of the landscape and photometric plans.
5. Approval by the City staff of building façade materials to ensure consistency with Section 8-15-5: Criteria for Appearance of the Yorkville Building Regulations for new non-residential structures whereby at least 50% of the total building is constructed of masonry products or precast concrete and incorporated as follows:
 - a. Front Façade: At least 50% shall incorporate masonry products or precast concrete.
 - b. Any other facade that abuts a street shall incorporate masonry products or precast concrete.

Proposed Motion for PUD Amendment & Final Plat Approval:

In consideration of testimony presented during a Public Hearing on February 8, 2017 and discussions conducted at that meeting, the Planning and Zoning Commission recommends approval to the City Council a request to amend the existing Cannonball Trails Planned Unit Development (PUD) and proposed Final PUD Plat for the approximately 6.7-acre property located at the northeast corner of US 34 (Veterans parkway) and Cannonball Trail, in Yorkville, Illinois, subject to staff recommendations and conditions in a memo dated February 2, 2017, and further subject to {insert any additional conditions of the Planning and Zoning Commission}...

Attachments:

1. Copy of Petitioner's Application w/exhibits.
2. Copy of Public Notice.



United City of Yorkville

800 Game Farm Road
Yorkville, Illinois 60560
Telephone: 630-553-4350
Fax: 630-553-3436

APPLICATION TO AMEND ANNEXATION OR PLANNED UNIT DEVELOPMENT AGREEMENT

Purpose of Application

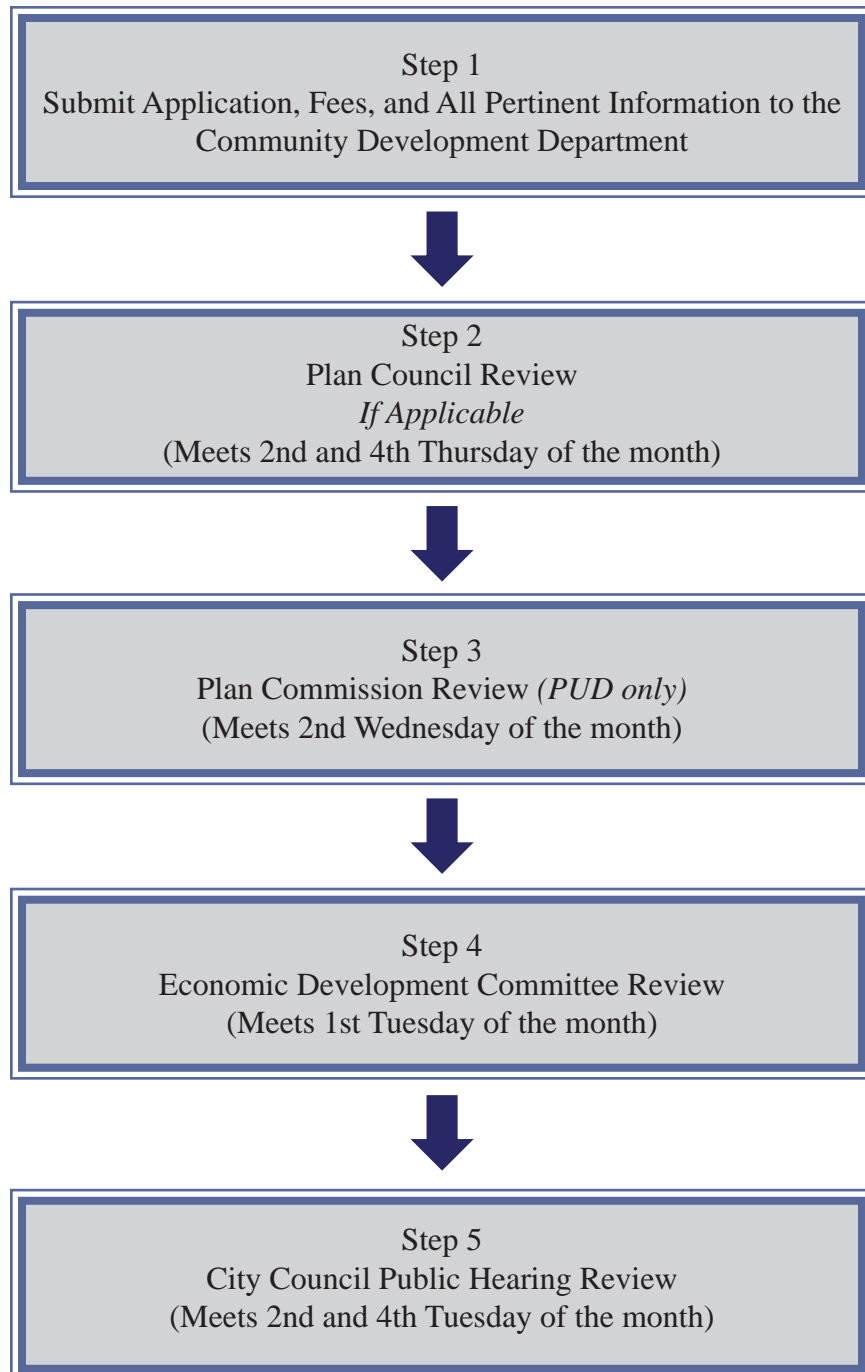
Annexation Agreements specify the desired zoning and other requested approvals (i.e., bulk regulations, variances, building codes, development impacts and contributions, etc.) that will affect the property and successor owners. Planned Unit Development (PUD) Agreements are unique and a complex form of zoning which differs from the conventional approval process allowing for flexibility in the design and land use of larger scale developments. Such approvals require agreements that are contractual in nature, therefore an amendment must be sought when a change, minor or substantial, in the original terms of the annexation or Planned Unit Development (PUD) Agreement occurs.

This packet explains the process to successfully submit and complete an Application to Amend an Annexation or Planned Unit Development Agreement. It includes a detailed description of the process and the actual application itself (Pages 6 to 9). Please type the required information in the application on your computer. The application will need to be printed and signed by the applicant. The only item that needs to be submitted to the City from this packet is the application. The rest of the packet is to help guide you through the process unto completion.

For a complete explanation of what is legally required throughout the Amendment process, please refer to "Title 10, Chapter 4, Section 10 Amendments" of the Yorkville, Illinois City Code.

Application Procedure

Procedure Flow Chart



Application Procedure

Step 1

Application Submittal

The following must be submitted to the Community Development Department:

- 2 original signed applications with legal description.
- 5 copies each of the application and exhibits, proposed drawings, location map, and site plan. Large items must be folded to fit in a 10" x 13" envelope.
- Appropriate filing fee. (See attached Fee Sheet on page 5)
- 1 CD containing an electronic copy (pdf) of each of the signed application (complete with exhibit), proposed drawings, location map, and site plan. A Microsoft Word document with the legal description is required on the CD.

Within one (1) week of submittal, the Community Development Department will determine if the application is complete or if additional information is needed. These materials must be submitted a minimum of 45 days prior to the targeted Plan Commission meeting. An incomplete submittal could delay the scheduling of the project.

Applicant will be responsible for payment of recording fees and public hearing costs, including written transcripts of the public hearing and outside consultant costs (i.e. legal review, land planner, zoning coordinator, environmental, etc.). The applicant will be required to establish a deposit account with the city to cover these fees. The Petitioner Deposit Account/Acknowledgement of Financial Responsibility form is attached to this document and must be submitted with the application.

Step 2

Plan Council (*If Applicable*)

Applicant may present the proposed amended plan to the Plan Council. The Plan Council meets on the 2nd and 4th Thursday of the month. The members of the Council include the Community Development Director, City Engineer, the Building Department Official, the Public Works Director, the Director of Parks and Recreation, a Fire Department Representative, and a Police Department Representative. Upon recommendation by the Plan Council, applicant will move forward to the Plan Commission hearing.

Step 3

Plan Commission (*PUD Amendments Only*)

Applicant will attend a public hearing conducted by the Plan Commission. The Plan Commission meets on the 2nd Wednesday of the Month at 7:00pm. Notice will be placed in the Kendall County Record by the United City of Yorkville. The applicant is responsible for sending certified public hearing notices to adjacent property owners within 500 feet of the subject property no less than 15 days and no more than 30 days prior to the public hearing date. Twenty Four (24) hours prior to the public hearing, a certified affidavit must be filed by the applicant with the Community Development Department containing the names, addresses and permanent parcel numbers of all parties that were notified. The Certified Mailing Affidavit form is attached to this document and must be submitted prior to the scheduled Plan Commission meeting.

Application Procedure

Step 4

Economic Development Committee

Applicant must present the proposed amendment agreement and/or plan to the Economic Development Committee. Economic Development Committee meets at 7:00 p.m. on the 1st Tuesday of each month in the Yorkville City Hall Conference Room. This session is to discuss and consider recommendations prior to full City Council considerations and provide informal feedback. The Economic Development Committee will submit its recommendation to City Council.

Step 5

City Council

Applicant will attend the City Council meeting where the recommendation of the proposed amendment will be considered. The City Council meets on the 2nd and 4th Tuesdays of the month at 7:00pm. City Council will make the final approval of the amendment.

Dormant Applications

The Community Development Director shall determine if an application meets or fails to meet the requirements stated above. If the Director determines that the application is incomplete it will become dormant under these circumstances:

- The applicant has been notified of such deficiencies and has not responded or provided a time line for completing the application within ninety (90) days from the time of notification.
- The applicant has not responded in writing to a request for information or documentation from the initial plan commission review within six (6) months from the date of that request.
- The applicant has not responded to a request for legal or engineering deposit replenishment for city incurred costs and fees within ninety (90) days from the date of the request.

If the Community Development Director has sent the required notice and the applicant has not withdrawn their application or brought it into compliance, then the director shall terminate the application. After termination, the application shall not be reconsidered except after the filing of a completely new application.

Withdrawal or termination of an application shall not affect the applicant's responsibility for payment of any costs and fees, or any other outstanding debt owed to the city. The balance of any funds deposited with the city that is not needed to pay for costs and fees shall be returned to the applicant. (Ord. 2011-34, 7-26-2011)

**United City of Yorkville**

800 Game Farm Road

Yorkville, Illinois 60560

Telephone: 630-553-4350

Fax: 630-553-7575

**INVOICE & WORKSHEET
PETITION APPLICATION****CONTACT:**

Jordan Dorsey

jdorsey@cedarhurstliving.com

314-254-8354

DEVELOPMENT/ PROPERTY:

NE Corner Hwy 34/Cannonball Trail

Acreage: Appx. 6.7

Date: 1-4-16

Concept Plan Review: ☐ Yes ☒ No \$ 0
Engineering Plan Review Deposit of \$500 due

Amendment: ☒ Yes ☐ No \$ 1,000
\$500.00 Fee due for each: (Annexation) (Plan) (Plat) (PUD)
X X

Annexation: ☐ Yes ☒ No \$ _____
\$250.00, plus \$10/acre for each acre over 5.
of acres: _____ - 5 = _____ x \$10 = _____ + \$250

Rezoning: ☐ Yes ☒ No \$ _____
\$200.00, plus \$10/acre for each acre over 5.
of acres: _____ - 5 = _____ x \$10 = _____ + \$200
If annexing and rezoning, charge only 1 per acre fee.
If rezoning to a PUD, charge PUD Development Fee- not Rezoning Fee.

Special Use: ☐ Yes ☒ No \$ _____
\$250.00, plus \$10/acre for each acre over 5.
of acres: _____ - 5 = _____ x \$10 = _____ + \$250

Zoning Variance: \$85.00 ☐ Yes ☒ No \$ _____
Outside Consultants deposit of \$500.00 due

Preliminary Plan Fee: \$500.00 ☐ Yes ☒ No \$ _____
X

P.U.D. Fee: \$500.00 ☐ Yes ☒ No \$ _____
X

Final Plat Fee: \$500.00 ☐ Yes ☒ No \$ _____
X

Engineering Plan Review Deposit: ☒ Yes ☐ No \$ 2,500
☐ Less than 1 acre = \$1,000 due
☒ Over 1 acre and less than 10 acres = \$2,500 due
☐ Over 10 acres and less than 40 acres = \$5,000 due
☐ Over 40 acres and less than 100 acres = \$10,000 due
☐ Over 100 acres = \$20,000 due

Outside Consultants Deposit: ☒ Yes ☐ No \$ 2,500
Legal, Land Planner, Zoning Coordinator, Environmental Services
Annexation, Subdivision, Rezoning, and Special Use:
☐ Less than 2 acres = \$1,000 due
☒ Over 2 acres and less than 10 acres = \$2,500 due
☐ Over 10 acres = \$5,000 due

TOTAL AMOUNT DUE: \$ 6,000

Word/ O Drive/ Dev. Dep. ARO/ Fee Sheet Wkst

Application For Amendment

STAFF USE ONLY

Date of Submission PC#

Development Name

Applicant Information

Name of Applicant(s)

Business Address

City State ZIP

Business Phone Business Fax

Business Cell Business E-mail

Property Information

Name of Holder of Legal Title

If Legal Title is held by a Land Trust, list the names of all holders of any beneficial interest therein:

Property Street Address

Description of Property's Physical Location

Zoning and Land Use of Surrounding Parcels

North	R-3 (Kendall County)
East	R-3 (Kendall County)
South	B-2 (Yorkville)
West	PUD (Yorkville) - Kendall Marketplace

Current Zoning Classification

Kendall County Parcel Number(s) of Property

02-29-100-004	02-29-100-005

List all governmental entities or agencies required to receive notice under Illinois law:

Application For Amendment

Property Information

Name of Agreement

Date of Recording

Summarize the items to be amended from the existing agreement:

AMEND EXHIBITS TO INCORPORATE APPLICANT'S CONCEPTUAL SITE PLAN AND TO ALLOW FOR ALL USES THAT ARE CURRENTLY PERMITTED IN THE B-1, B-2, OR O DISTRICTS IN ACCORDANCE WITH THE CITY'S CURRENT ZONING ORDINANCE, SPECIFICALLY ACKNOWLEDGING, WITHOUT LIMITATION, ASSISTED LIVING AND MEMORY CARE, ADULT DAYCARE FACILITIES, AND MEDICAL OFFICES AS PERMITTED USES

APPROVE APPLICANT'S CONCEPTUAL SITE PLAN, SUBJECT TO FINAL ENGINEERING; APPLICANT'S PREFERRED SITE PLAN IS SET FORTH AS EXHIBIT E; IF ENGINEERING AND DETENTION REQUIREMENTS LIMIT THE SITE PLAN SHOWN AS EXHIBIT E, APPLICANT'S SECONDARY SITE PLAN IS SHOWN AS EXHIBIT F

ACKNOWLEDGE EXPIRATION OF RECAPTURE PAYMENT AND DELETE ALL REFERENCES TO REQUIRED RECAPTURE PAYMENTS

ACKNOWLEDGE THAT APPLICANT WILL NOT BE REQUIRED TO CONSTRUCT ANY PUBLIC INFRASTRUCTURE OR OVERSIZE ANY PUBLIC IMPROVEMENTS OR INFRASTRUCTURE RELATED TO THE PROPERTY

ACKNOWLEDGE THAT APPLICANT SHALL NOT BE REQUIRED TO COMPLY WITH ANY SETBACKS OR LANDSCAPE REQUIREMENTS THAT ARE NOT CITY CODE REQUIREMENTS

PERMIT APPLICANT TO INSTALL UP TO THREE (3) MONUMENT SIGNS ON THE PROPERTY SIZED UP TO 15' WIDE AND UP TO 10' TALL IN LOCATIONS GENERALLY SHOWN ON THE ATTACHED SITE PLANS; ALSO TO ALLOW APPLICANT'S TEMPORARY DEVELOPMENT SIGN SIZED AS 6' X 8'

**PUD AMENDMENT SHALL BE SUBJECT TO APPLICANT'S OR APPLICANT'S AFFILIATE'S CLOSING ON THE PROPERTY

Additional Contact Information

Attorney

Name

Address

City State ZIP

Phone

Fax

E-mail

Engineer

Name

Address

City State ZIP

Phone

Fax

E-mail

Land Planner/Surveyor

Name

Address

City State ZIP

Phone Fax

E-mail

Application For Amendment

Attachments

Applicant must attach a legal description of the property to this application and title it as "Exhibit A".

Applicant must list the names and addresses of any adjoining or contiguous landowners within 500 feet of the property that are entitled notice of application under any applicable City Ordinance or State Statute. Attach a separate list to this application and title it as "Exhibit B".

Applicant must attach a true and correct copy of the existing agreement and title it as "Exhibit C".

Applicant must attach amendments from the existing agreement and title it as "Exhibit D".

Agreement

I verify that all the information in this application is true to the best of my knowledge. I understand and accept all requirements and fees as outlined as well as any incurred administrative and planning consultant fees which must be current before this project can proceed to the next scheduled committee meeting.

I understand all of the information presented in this document and understand that if an application becomes dormant it is through my own fault and I must therefore follow the requirements outlined above.

Applicant Signature

Date


JORDAN DORSEY, FOR DOVER DEVELOPMENT, LLC

1-3-17

Owner hereby authorizes the applicant to pursue the appropriate entitlements on the property.

Owner Signature

Date


FOR FIRST NATIONAL BANK OF OTTAWA

1-5-17

THIS APPLICATION MUST BE NOTARIZED
PLEASE NOTARIZE IN THE SPACE BELOW:



United City of Yorkville
County Seat of Kendall County
800 Game Farm Road
Yorkville, Illinois, 60560
Telephone: 630-553-4350
Fax: 630-553-7575
Website: www.yorkville.il.us

Petitioner Deposit Account / Acknowledgment of Financial Responsibility

Development/Property Address: NE CORNER HWY 34/CANNONBALL TRAIL	Project No.: <i>FOR CITY USE ONLY</i>	Fund Account No.: <i>FOR CITY USE ONLY</i>
---	--	---

Petition/Approval Type: *check appropriate box(es) of approval requested*

☐ Concept Plan Review ☐ Amendment (Text) (Annexation) (Plat) ☐ Annexation
☐ Rezoning ☐ Special Use ☐ Mile and ½ Review
☐ Zoning Variance ☐ Preliminary Plan ☐ Final Plans
☒ P.U.D. ☐ Final Plat

Petitioner Deposit Account Fund:

It is the policy of the United City of Yorkville to require any petitioner seeking approval on a project or entitlement request to establish a Petitioner Deposit Account Fund to cover all actual expenses occurred as a result of processing such applications and requests. Typical requests requiring the establishment of a Petitioner Deposit Account Fund include, but are not limited to, plan review of development approvals/engineering permits. Deposit account funds may also be used to cover costs for services related to legal fees, engineering and other plan reviews, processing of other governmental applications, recording fees and other outside coordination and consulting fees. Each fund account is established with an initial deposit based upon the estimated cost for services provided in the **INVOICE & WORKSHEET PETITION APPLICATION**. This initial deposit is drawn against to pay for these services related to the project or request. Periodically throughout the project review/approval process, the Financially Responsible Party will receive an invoice reflecting the charges made against the account. At any time the balance of the fund account fall below ten percent (10%) of the original deposit amount, the Financially Responsible Party will receive an invoice requesting additional funds equal to one-hundred percent (100%) of the initial deposit if subsequent reviews/fees related to the project are required. In the event that a deposit account is not immediately replenished, review by the administrative staff, consultants, boards and commissions may be suspended until the account is fully replenished. If additional funds remain in the deposit account at the completion of the project, the city will refund the balance to the Financially Responsible Party. A written request must be submitted by the Financially Responsible Party to the city by the 15th of the month in order for the refund check to be processed and distributed by the 15th of the following month. All refund checks will be made payable to the Financially Responsible Party and mailed to the address provided when the account was established.

ACKNOWLEDGMENT OF FINANCIAL RESPONSIBILITY

Name/Company Name:	Address:	City:	State:	Zip Code:
DOVER DEVELOPMENT, LLC	120 SOUTH CENTRAL AVENUE, SUITE 725	CLAYTON	MISSOURI	63105

Telephone:	Mobile:	Fax:	E-mail:
314-254-8354			JDORSEY@CEDARHURSTLIVING.COM

Financially Responsible Party:

I acknowledge and understand that as the Financially Responsible Party, expenses may exceed the estimated initial deposit and, when requested by the United City of Yorkville, I will provide additional funds to maintain the required account balance. Further, the sale or other disposition of the property does not relieve the individual or Company/Corporation of their obligation to maintain a positive balance in the fund account, unless the United City of Yorkville approves a Change of Responsible Party and transfer of funds. Should the account go into deficit, all City work may stop until the requested replenishment deposit is received.

Print Name: JORDAN DORSEY Title: V/P, DOVER DEVELOPMENT, LLC
 Signature*: [Signature] Date: 1-3-17

***The name of the individual and the person who signs this declaration must be the same. If a corporation is listed, a corporate officer must sign the declaration (President, Vice-President, Chairman, Secretary or Treasurer)**

FOR CITY USE ONLY

ACCOUNT CLOSURE AUTHORIZATION:

Date Requested: _____ ☐ Completed ☐ Inactive

Print Name: _____ ☐ Withdrawn ☐ Collections

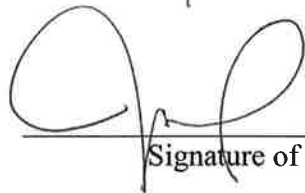
Signature: _____ ☐ Other

DEPARTMENT ROUTING FOR AUTHORIZATION: ☐ Comm Dev. ☐ Building ☐ Engineering ☐ Finance ☐ Admin.

**CERTIFIED MAILING
AFFIDAVIT**

STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

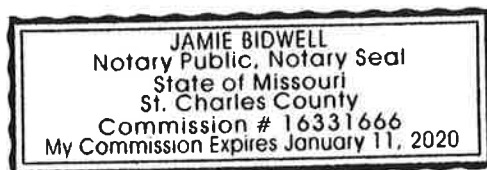
I/We, Dover Development, LLC, petitioner, being first duly sworn, do hereby state under oath that to the best of my knowledge the **attached** list is a true, correct and **complete list of all permanent parcel numbers, and names and addresses of owners**, of all lots and parts of lots located within 500 feet (exclusively of any public streets and alleys) of the property legally described on the attached application for annexation, rezoning, special use permit, planned unit development, variation, or other zoning amendment. I further state that said list was obtained from the current tax rolls of the Kendall County Treasurer's Office. I further state that I mailed by U.S. Certified Mail, Return Receipt Requested, a copy of the Public Notice of Public Hearing before the United City of Yorkville Planning and Zoning Commission for the Public Hearing held on Wednesday, Feb, 8th 2017, at the United City of City Council Chambers, Yorkville, Illinois. The notice was mailed to the attached list of all of the permanent parcel numbers and names and addresses of owners at the U.S. Post office on January 23, 2017.

 for Dover Development, LLC
Signature of Petitioner(s)

Subscribed and sworn to before me this

23rd day of January, 2017


Notary Public



PUBLIC NOTICE
NOTICE OF PUBLIC HEARING
BEFORE
THE UNITED CITY OF YORKVILLE
PLANNING AND ZONING COMMISSION
PZC 2017-01

NOTICE IS HEREWITH GIVEN THAT Dover Development, LLC, petitioner, has filed an application with the United City of Yorkville, Kendall County, Illinois, requesting authorization of an amendment to the existing Cannonball Trails Planned Unit Development and Annexation Agreement for the purpose of constructing a new two-story assisted living with memory care facility. The petitioner seeks to amend the previously approved exhibits in the Planned Unit Development to incorporate a revised conceptual site plan and to allow for all uses that are currently permitted in the B-1 Local Business District, B-2 Retail Commerce Business District and O Office District, specifically and without limitation to assisted living and memory care, adult daycare facilities and medical office uses. Additional requested amendments to the Planned Unit Development and Annexation Agreement relate to expiration of recapture payments, requirements for certain public infrastructure improvements and site signage. The real property consists of approximately 6.7 acres, and is generally located at the northeast corner of US HWY 34 (Veterans Parkway) and Cannonball Trail, in Yorkville, Illinois.

The legal description is as follows:

THAT PART OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE SOUTH 88 DEGREES 41 MINUTES 11 SECONDS WEST ALONG THE SOUTH LINE OF OAK KNOLLS SUBDIVISION, 317.68 FEET TO THE CENTER LINE OF CANNONBALL TRAIL; THENCE SOUTH 21 DEGREES 49 MINUTES 35 SECONDS WEST ALONG SAID CENTER LINE 219.07 FEET TO THE NORTHERLY LINE OF A TRACT CONVEYED TO KENDALL COUNTY BY DOCUMENT NO 907978; THENCE SOUTH 68 DEGREES 10 MINUTES 25 SECONDS EAST ALONG SAID NORTH LINE 35.0 FEET TO THE EAST LINE OF CANNONBALL TRAIL; THENCE SOUTH 18 DEGREES 56 MINUTES 6 SECONDS WEST ALONG SAID EAST LINE 198.25 FEET TO AN ANGLE POINT; THENCE SOUTH 21 DEGREES 49 MINUTES 35 SECONDS WEST ALONG SAID EAST LINE 185.73 FEET TO AN ANGLE POINT; THENCE SOUTH 45 DEGREES, 10 MINUTES 25 SECONDS EAST ALONG SAID EAST LINE 73.20 FEET TO THE NORTHERLY LINE OF U.S. ROUTE NO. 34; THENCE EASTERLY ALONG SAID NORTHERLY LINE, BEING ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF

7,538.42 FEET, AN ARC DISTANCE OF 462.40 FEET TO THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 49 MINUTES 35 SECONDS WEST ALONG SAID EAST LINE 697.74 FEET TO THE POINT OF BEGINNING IN BRISTOL TOWNSHIP, KENDALL COUNTY, ILLINOIS.
(PERMANENT INDEX NUMBER: 02-29-100-004 AND 02-29-100-005)

NOTICE IS HEREWITH GIVEN THAT the Planning and Zoning Commission for the United City of Yorkville will conduct a public hearing on said application on Wednesday, February 8, 2017 at 7 p.m. at the United City of Yorkville, City Council Chambers, located at 800 Game Farm Road, Yorkville, Illinois 60560.

The public hearing may be continued from time to time to dates certain without further notice being published.

Application and information materials regarding this notice are available for public review and any questions or written comments should be addressed to the United City of Yorkville Community Development Department, City Hall, 800 Game Farm Road, Yorkville, Illinois. All interested parties are invited to attend the public hearing and will be given an opportunity to be heard.

By order of the Corporate Authorities of the United City of Yorkville, Kendall County, Illinois.

BETH WARREN
City Clerk

BY: Lisa Pickering
Deputy Clerk

PUBLIC NOTICE
NOTICE OF PUBLIC HEARING
BEFORE
THE UNITED CITY OF YORKVILLE
PLANNING AND ZONING COMMISSION
PZC 2017-01

NOTICE IS HEREWITH GIVEN THAT Dover Development, LLC, petitioner, has filed an application with the United City of Yorkville, Kendall County, Illinois, requesting authorization of an amendment to the existing Cannonball Trails Planned Unit Development and Annexation Agreement for the purpose of constructing a new two-story assisted living with memory care facility. The petitioner seeks to amend the previously approved exhibits in the Planned Unit Development to incorporate a revised conceptual site plan and to allow for all uses that are currently permitted in the B-1 Local Business District, B-2 Retail Commerce Business District and O Office District, specifically and without limitation to assisted living and memory care, adult daycare facilities and medical office uses. Additional requested amendments to the Planned Unit Development and Annexation Agreement relate to expiration of recapture payments, requirements for certain public infrastructure improvements and site signage. The real property consists of approximately 6.7 acres, and is generally located at the northeast corner of US HWY 34 (Veterans Parkway) and Cannonball Trail, in Yorkville, Illinois.

The legal description is as follows:

THAT PART OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE SOUTH 88 DEGREES 41 MINUTES 11 SECONDS WEST ALONG THE SOUTH LINE OF OAK KNOLLS SUBDIVISION, 317.68 FEET TO THE CENTER LINE OF CANNONBALL TRAIL; THENCE SOUTH 21 DEGREES 49 MINUTES 35 SECONDS WEST ALONG SAID CENTER LINE 219.07 FEET TO THE NORTHERLY LINE OF A TRACT CONVEYED TO KENDALL COUNTY BY DOCUMENT NO 907978; THENCE SOUTH 68 DEGREES 10 MINUTES 25 SECONDS EAST ALONG SAID NORTH LINE 35.0 FEET TO THE EAST LINE OF CANNONBALL TRAIL; THENCE SOUTH 18 DEGREES 56 MINUTES 6 SECONDS WEST ALONG SAID EAST LINE 198.25 FEET TO AN ANGLE POINT; THENCE SOUTH 21 DEGREES 49 MINUTES 35 SECONDS WEST ALONG SAID EAST LINE 185.73 FEET TO AN ANGLE POINT; THENCE SOUTH 45 DEGREES, 10 MINUTES 25 SECONDS EAST ALONG SAID EAST LINE 73.20 FEET TO THE NORTHERLY LINE OF U.S. ROUTE NO. 34; THENCE EASTERLY ALONG SAID NORTHERLY LINE, BEING ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF

7,538.42 FEET, AN ARC DISTANCE OF 462.40 FEET TO THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 49 MINUTES 35 SECONDS WEST ALONG SAID EAST LINE 697.74 FEET TO THE POINT OF BEGINNING IN BRISTOL TOWNSHIP, KENDALL COUNTY, ILLINOIS.
(PERMANENT INDEX NUMBER: 02-29-100-004 AND 02-29-100-005)

NOTICE IS HEREWITH GIVEN THAT the Planning and Zoning Commission for the United City of Yorkville will conduct a public hearing on said application on Wednesday, February 8, 2017 at 7 p.m. at the United City of Yorkville, City Council Chambers, located at 800 Game Farm Road, Yorkville, Illinois 60560.

The public hearing may be continued from time to time to dates certain without further notice being published.

Application and information materials regarding this notice are available for public review and any questions or written comments should be addressed to the United City of Yorkville Community Development Department, City Hall, 800 Game Farm Road, Yorkville, Illinois. All interested parties are invited to attend the public hearing and will be given an opportunity to be heard.

By order of the Corporate Authorities of the United City of Yorkville, Kendall County, Illinois.

BETH WARREN
City Clerk

BY: Lisa Pickering
Deputy Clerk

EXHIBIT "A"

That part of the Northwest Quarter of Section 29, Township 37 North, Range 7 East of the Third Principal Meridian described as follows:

Beginning at the Northeast corner of said Northwest Quarter; thence South 88 degrees 41 minutes 11 seconds West along the South line of Oak Knolls Subdivision, 317.68 feet to the center line of Cannonball Trail; thence South 21 degrees 49 minutes 35 seconds West along said center line 219.07 feet to the Northerly line of a tract conveyed to Kendall County by Document No 907978 ; thence South 68 degrees 10 minutes 25 seconds East along said North line 35.0 feet to the East line of Cannonball Trail; thence South 18 degrees 56 minutes 6 seconds West along said East line 198.25 feet to an angle point; thence South 21 degrees 49 minutes 35 seconds West along said East line 185.73 feet to an angle point; thence South 45 degrees, 10 minutes 25 seconds East along said East line 73.20 feet to the Northerly line of U.S. Route No. 34; thence Easterly along said Northerly line, being along a curve to the right having a radius of 7,538.42 feet, an arc distance of 462.40 feet to the East line of said Northwest Quarter; thence North 00 degrees 49 minutes 35 seconds West along said East line 697.74 feet to the point of beginning in Bristol Township, Kendall County, Illinois.

Exhibit B

02-29-127-032

CASTLE BANK NA, % JAMES RATOS
207 W KENDALL DR
YORKVILLE, IL 60560

02-29-127-037

CASTLE BANK NA, % JAMES RATOS
207 W KENDALL DR
YORKVILLE, IL 60560

02-29-127-041

CASTLE BANK NA, % JAMES RATOS
207 W KENDALL DR
YORKVILLE, IL 60560

02-20-381-006

KENDALL HOLDINGS I LLC, % GREENWOOD
GLOBAL INC
707 SKOKIE BLVD STE 600
NORTHBROOK, IL 60062

02-20-381-007

KENDALL HOLDINGS I LLC, % GREENWOOD
GLOBAL INC
707 SKOKIE BLVD STE 600
NORTHBROOK, IL 60062

02-20-381-008

KENDALL HOLDINGS I LLC, % GREENWOOD
GLOBAL INC
707 SKOKIE BLVD STE 600
NORTHBROOK, IL 60062

02-29-100-005

FIRST NATIONAL BANK OF OTTAWA,
701 LASALLE ST
OTTAWA, IL 61350

02-29-131-001

KENDALL HOLDINGS I LLC, % GREENWOOD
GLOBAL INC
707 SKOKIE BLVD STE 600
NORTHBROOK, IL 60062

02-29-131-002

KENDALL HOLDINGS I LLC, % GREENWOOD
GLOBAL INC
707 SKOKIE BLVD STE 600
NORTHBROOK, IL 60062

02-29-131-003

KENDALL HOLDINGS I LLC, % GREENWOOD
GLOBAL INC
707 SKOKIE BLVD STE 600
NORTHBROOK, IL 60062

02-29-131-004

KENDALL HOLDINGS I LLC, % GREENWOOD
GLOBAL INC
707 SKOKIE BLVD STE 600
NORTHBROOK, IL 60062

02-29-131-005

KENDALL HOLDINGS I LLC, % GREENWOOD
GLOBAL INC
707 SKOKIE BLVD STE 600
NORTHBROOK, IL 60062

02-29-201-002

HARVEST PROPERTY MANAGEMENT
PO BOX 51
YORKVILLE, IL 60560

02-20-376-001

OLIVER, RONALD R
3926 CANNONBALL TRL
YORKVILLE, IL 60560

02-29-127-040

CASTLE BANK
%KAPPOS PETER
304 HAMBLETONIAN DR
OAK BROOK, IL 60523

02-29-127-034

CASTLE BANK NA, % JAMES RATOS
207 W KENDALL DR
YORKVILLE, IL 60560

02-29-127-039

LI, KAI FENG
684 VETERANS PKWY
YORKVILLE, IL 60560

02-29-127-042

CASTLE BANK NA
% GEORGE KAPPOS
319 TRINITY LN
OAK BROOK, IL 60523

Exhibit B

02-29-126-007

FIRST NATIONAL BANK OTTAWA
701 LASALLE ST
OTTAWA, IL 61350

02-29-203-018

CASTLE BANK NA, % JAMES RATOS
207 W KENDALL DR
YORKVILLE, IL 60560

02-29-100-004

FIRST NATIONAL BANK OF OTTAWA,
701 LASALLE ST
OTTAWA, IL 61350

02-29-201-001

ESMER CAPITAL MANAGE ENTER LLC
PO BOX 51
YORKVILLE, IL 60560

02-20-376-003

CLACK, BOBBY J & MARILYN
3974 CANNONBALL TRL
YORKVILLE, IL 60560

02-29-126-006

FIRST NATIONAL BANK OF OTTAWA,
%TRUST DEPARTMENT
701 LASALLE ST
OTTAWA, IL 61350

02-20-376-002

MATLOCK, GARY L
3960 CANNONBALL TRL
YORKVILLE, IL 60560

02-20-451-001

CRAWFORD PAUL D &, RALEY CATHERINE M
20 HICKORY LN
YORKVILLE, IL 60560

02-20-451-002

OLD 2ND NATIONAL BANK
37 S RIVER ST
AURORA, IL 60507

02-20-452-005

VITEK, FRANKLIN & JOANNE
15 HICKORY LN
YORKVILLE, IL 60560

02-20-452-006

MOLNAR, JILL S
23 HICKORY LN
YORKVILLE, IL 60560

02-20-452-007

PRICE, KYLE A LIV TRUST
29 HICKORY LN
YORKVILLE, IL 60560

02-20-353-008

KENDALL HOLDINGS I LLC, % GREENWOOD
GLOBAL INC
707 SKOKIE BLVD STE 600
NORTHBROOK, IL 60062

200000012562
 Filed for Record in
 KENDALL COUNTY, ILLINOIS
 PAUL ANDERSON
 On 09-15-2000 At 02:51 pm.
 ANNEX AGREE 33.00

Revised August 23, 2000

STATE OF ILLINOIS)
)SS
 COUNTY OF KENDALL)

**PLANNED UNIT DEVELOPMENT AND
 ANNEXATION AGREEMENT
 OLD KENT BANK SUCCESSOR TRUSTEE TO
 MERCHANTS NATIONAL BANK OF AURORA, TRUSTEE (TRUST #5085)
 and ARTHUR SHERIDAN (OWNER)
 and COURTHOUSE SQUARE, L.L.C. (DEVELOPER)**

This Planned Unit Development and Annexation Agreement (hereinafter "Agreement"), is made and entered into this 10th day of AUGUST, 2000, by and between the UNITED CITY OF YORKVILLE, a municipal corporation, hereinafter referred to as "CITY", OLD KENT BANK, SUCCESSOR TRUSTEE TO MERCHANTS NATIONAL BANK OF AURORA, TRUSTEE UNDER TRUST #5085, ARTHUR SHERIDAN, beneficiary thereof and COURTHOUSE SQUARE, L.L.C. (in formation) as "DEVELOPER",

WITNESSETH

WHEREAS, OWNER owns fee simple interest to the real property which is legally described in Exhibit "A" attached hereto and depicted on the Plat of Annexation attached hereto and incorporated herein as Exhibit "A-1", consisting of approximately 6.4 acres, more or less (hereinafter "PROPERTY"); and

WHEREAS, it is the desire of OWNER and DEVELOPER to provide for the annexation of the subject real PROPERTY; and to develop the PROPERTY in the CITY in accordance with the terms of this Agreement and the Ordinances of the CITY; and to provide that when said PROPERTY is annexed zoning will be granted at that time; and

WHEREAS, it is the desire of the CITY to annex the PROPERTY and facilitate its development pursuant to the terms and conditions of this Agreement and the Ordinances of the CITY; and

WHEREAS, OWNER and DEVELOPER and CITY has or will perform and execute all acts required by law to effectuate such annexation; and

WHEREAS, all notices required by law relating to the annexation of the PROPERTY to the CITY have been given to the persons or entities entitled thereto, pursuant to the applicable provisions of the Illinois Compiled Statutes; and

WHEREAS, the OWNER and DEVELOPER and CITY agree that upon Annexation to the CITY the subject PROPERTY shall be zoned as O (Office District) Planned Unit Development, with the subject real property to be entitled to all uses under the O (Office District) and only the specific business uses currently permitted under the CITY B-1 (Limited business District) and B-2 (General Business District) as set out in the attached Exhibit "B" which is incorporated herein by reference; and

WHEREAS, OWNER and DEVELOPER have agreed that in consideration of the CITY agreeing to annex and zone the subject real property of OWNER as Planned Unit Development with the additional business uses permitted as set out in Exhibit "B", OWNER and DEVELOPER agree that all of the remaining B-1 (Limited Business District) and B-2 (General Business District) uses set out in the CITY Zoning Ordinance for B-1 and B-2 but which are not listed in the attached Exhibit "B" shall not be permitted uses under this Agreement; and all B-3 (Service Business District) and B-4 (Business District) uses as contained in the CITY Zoning Ordinance are specifically prohibited from use on the subject real property. In the event the O (Office District), B-1 (Limited Business District), or B-2 (General Business District) are amended from time to time permitting additional uses, OWNER and DEVELOPER may petition for said additional uses without additional fee by Petition to Modify this Planned Unit Development Agreement upon approval by the City Council as to any change in the CITY Office Zoning Classification; but will require a Public Hearing to be held and City Council approval if there is a modification sought requesting additional B-1 or B-2 uses by OWNER and DEVELOPER; and

WHEREAS, in reliance upon the development of the PROPERTY in the manner proposed, OWNER and DEVELOPER and the CITY have agreed to execute all petitions and other documents that are necessary to accomplish the annexation of the PROPERTY to the CITY; and

WHEREAS, in accordance with the powers granted to the CITY by the provisions of 65 ILCS 5/11-15.1-1 through 15.1-5, inclusive, relating to Annexation Agreements, the parties hereto wish to enter into a binding agreement with respect to the future annexation and zoning of the subject PROPERTY and to provide for various other matters related directly or indirectly to the annexation of the PROPERTY in the future, as authorized by, the provisions of said statutes; and

WHEREAS, pursuant to due notice and publication in the manner provided by law, the appropriate zoning authorities of the CITY have had such public hearing and have taken all further action required by the provisions of 65 ILCS 5/11-15-1.3 and the ordinances of the CITY relating to the procedure for the authorization, approval and execution of this Annexation Agreement by the CITY.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and conditions herein contained, and by authority of and in accordance with the aforesaid statutes of the State of Illinois, the parties agree as follows:

1. ANNEXATION.

OWNER and DEVELOPER have filed with the Clerk of the CITY a duly executed verified petition to annex pursuant to, and in accordance with the provisions of 65 ILCS 5/7-1-1 et seq. to annex the PROPERTY to the UNITED CITY OF YORKVILLE.

2. ZONING.

- A. Contemporaneously with the Annexation of the subject PROPERTY, the CITY shall adopt an ordinance amending the provisions of the United City of Yorkville Zoning Ordinance so as to provide that the PROPERTY shall be classified and shall zone the parcel Office PUD permitting the limited business uses as set forth in Exhibit "B".
- B. Contemporaneously with the Annexation of the PROPERTY, the CITY shall, if necessary, amend its Comprehensive Plan to provide for the uses on the PROPERTY that are reflected in this Agreement.
- C. The CITY and OWNER and DEVELOPER agree that the PROPERTY shall be developed in substantial compliance with the ordinances of the CITY in effect at the time of passage of this agreement by the City Council of the UNITED CITY OF YORKVILLE.
- D. Hours of operation of any convenience store at this location shall be limited to 6:00 a.m. to midnight.
- E. That all recitals contained in this Agreement are hereby incorporated as enforceable covenants and conditions of this Agreement.

3. ANNEXATION TO YORKVILLE-BRISTOL SANITARY DISTRICT

- A. OWNER and DEVELOPER agree to file the necessary petitions and agreements to request annexation and sanitary sewer service for the PROPERTY from the Yorkville-Bristol Sanitary District and the CITY shall provide a letter to Yorkville-Bristol Sanitary District indicating the CITY's desire to annex and have Yorkville-Bristol Sanitary District service the property. The subject real property has been identified by the CITY as being located within the Facility Plan Area of the Yorkville-Bristol Sanitary

District. Attached hereto as Exhibit "C" is an extended Annexation Application to the Yorkville-Bristol Sanitary District.

- B. In the event at the time OWNER/DEVELOPER is ready to develop the subject real property, Yorkville-Bristol Sanitary District lacks capacity to service the development. OWNER/DEVELOPER shall be permitted to serve the subject development by septic system on a temporary basis at OWNER's expense until sanitary sewer is available.

OWNER/DEVELOPER agrees to connect to the sanitary sewer service within one hundred eighty (180) days of capacity being available.

In the event OWNER/DEVELOPER does temporarily hook-up to a septic system, OWNER/DEVELOPER shall be required to deposit with the CITY either a Letter of Credit or Bond in an amount approved by the City Engineer to secure hook-up for sanitary sewer purposes.

4. MUNICIPAL IMPROVEMENTS.

- A. The CITY acknowledges that it currently has the ability to provide ample quantities of water for the use of this development and that the UNITED CITY OF YORKVILLE will support the development's tap into the Yorkville-Bristol Sanitary District system.

- B. OWNER and DEVELOPER upon development of the subject real property shall provide two watermain extensions of 8" watermain to the East side of the subject site.

- C. The OWNER and DEVELOPER will be given a recapture agreement for any use or extension of any developer improvements of roadways, storm water, water or sewer facilities to or through this property for other than their own development which are required by the CITY or other governmental body, which benefit off-site owners or developers.

5. RECAPTURE.

In the event the OWNER and DEVELOPER seek recapture reimbursement; or the CITY requests OWNER or DEVELOPER to construct public improvements benefitting other parcels, the parties agree a Recapture Agreement shall be executed pursuant to and in compliance with the Illinois Compiled Statutes, Local Government Act governing the Recapture with the requisite Public Hearing being held and Requisite Recapture Ordinance being approved by the City Council contingent on the percentage of the benefit to the OWNER other than the DEVELOPER and including the service area effected.

6. SIGNAGE:

The CITY agrees to allow the following signage to be used in the development in conformance with City Ordinances:

- A. Two identification signs (one for the commercial area not to exceed 100 square feet and one for the office area not to exceed 100 square feet).
- B. Individual building signs shall be permitted for each business located within the development the size of which will conform to CITY ordinances.
- C. Directional signs directing traffic within the development in conformance with CITY ordinances or if the sign ordinance is silent then at the discretion of the DEVELOPER.
- D. All signs must conform to the requirements of the CITY sign Ordinance in relation to locations on the subject site, dimensions permitted and the like notwithstanding anything contained herein.

7. OVERSIZING.

In the event OWNER and DEVELOPER is required on or off-site to oversize any water, storm sewer or City sanitary sewer lines or to develop any roadways for future extension to accommodate other properties, CITY agrees to require anyone connecting to said lines to pay the CITY who then shall reimburse OWNER and DEVELOPER within 30 days of connection by the OWNER and DEVELOPER of any other parcel of real property connecting to said improvements, for OWNER and DEVELOPER's costs in over-sizing said lines including costs for deepening said lines and any engineering fees and all other costs associated therewith. The agreement for recapture is a part of this agreement and shall become effective with this agreement. The terms and costs for the recapture shall be calculated at the time of additional connection by other owners/developers on a basis of all cost of the improvement including the cost of interest paid and lost interest income since the time of annexation prorated by the number of square feet to be connected to the system(s).

8. PLANNED UNIT DEVELOPMENT ZONING AND CONDITIONS

The parties agree upon approval of this Agreement, the subject real property shall be zoned by Ordinance as Office PUD with limited business uses as set forth in Exhibit "B". The subject property shall be developed and improved as Planned Unit Development under the following criteria:

- A. Specific building locations as generally defined by the site plan, as per Exhibit "D".

- B. It is the intent of the OWNER and DEVELOPER to provide additional shrubbery, landscaping or screening to the most northerly and easterly area of the parcel. Setbacks shall be according to the Site Plan, Exhibit "D", attached; and in conformance with the CITY Amended Landscape Ordinance #2000-48. The site plan attached is hereby modified to provide that a minimum distance of approximately 400 feet shall be maintained between the northerly property line of the subject site and the commercial center for business use shown on the subject site.
- C. The OWNER and DEVELOPER shall be permitted to operate any permitted use under the UNITED CITY OF YORKVILLE Ordinance in all "B-1" and "B-2" Business Classification District and "O" Office District, which are set out in the attached Exhibit "B" that is used in relation to retail sales or service on the subject site.
- D. Parking shall be in conformance with city ordinance related to each classification of use. Minimum setback from the property line to parking areas as shown on the subject site plan shall be 45 feet from Route 34. The existing residence on Cannonball Trail which will be converted to office use shall not be subject to said setback.
- E. Detention shall be provided on-site in conformance with the CITY Ordinance.
- F. OWNER and DEVELOPER shall provide an Exhibit to this Agreement of all building facades to be used in the development of the real property as substantially presented to the CITY as set out in the attached Exhibit "F"; and in Landscape Plan which is attached hereto and incorporated herein as Exhibit "E".

9. TIME IS OF THE ESSENCE.

It is understood and agreed by the parties hereto that time is of the essence in this Agreement, and that all parties will make every reasonable effort to expedite the subject matter hereof. It is further understood and agreed by the parties that the successful consummation of this Agreement requires their continued cooperation.

10. BINDING EFFECT AND TERM.

This Annexation Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns including, but not limited to, successor owners of record, successor developers, lessees and successor lessees, and upon an successor municipal authority of

the CITY and successor municipalities for a period of twenty (20) years from the later of the date of execution hereof and the date of adoption of the ordinances pursuant hereto.

11. NOTICES AND REMEDIES.

Nothing contained herein shall require the original named OWNER in this Agreement to undertake any of the development obligations in this Agreement; those obligations being the responsibility of the DEVELOPER of the subject parcel and/or future OWNER of the subject parcel of real property.

Upon breach of this Agreement, any of the parties in any court of competent jurisdiction, by any action or proceeding at law or in equity, may exercise any remedy available at law or equity.

Before any failure of any party of this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify in writing, by certified mail/return receipt requested, the party alleged to have failed to perform, state the obligation allegedly not performed and the performance demanded.

Notice shall be provided at the following addresses:

CITY: UNITED CITY OF YORKVILLE
800 Game Farm Rd.
Yorkville, IL 60560
Attn: Mayor

Copy to: CITY Attorney:
Daniel J. Kramer
1107A S. Bridge St.
Yorkville, IL 60560

OWNER and DEVELOPER: Arthur Sheridan and Associates, Ltd.,
100 Tower Dr.
Burr Ridge, IL 60521

12. AGREEMENT TO PREVAIL OVER ORDINANCES.

In the event of any conflict between this Agreement and any ordinances of the CITY in force at the time of execution of this agreement or enacted during the pendency of this agreement, the provision of this Agreement shall prevail to the extent of any such conflict or inconsistency.

13. PARTIAL INVALIDITY OF AGREEMENT.

If any provision of this Agreement (except those provisions relating to the requested rezoning of the PROPERTY identified herein and the ordinances adopted in connection herewith), or its application to any person, entity, or property is held invalid, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect the application or validity of any, other terms, conditions and provisions of this Agreement and, to that end, any terms, conditions and provisions of this Agreement are declared to be severable.

If, for any reason during the term of this Agreement, any approval or permission granted hereunder regarding plans or plats of subdivision or zoning is declared invalid, the CITY agrees to take whatever action is necessary to reconfirm such plans and zoning ordinances effectuating the zoning, variations and plat approvals proposed herein.

14. USE OF PROPERTY FOR FARMING/ZONING.

Any portion of the PROPERTY, which is not conveyed or under development as provided herein, may be used for farming purposes, regardless of the underlying zoning.

Further, the parties agree that until, or unless it is converted to a permitted office or business use pursuant to this Agreement, the house currently located on the subject premises may continue to be occupied as a legal non-conforming use of the residence. However, once converted to "O" Office District or "B" Business District use, it shall no longer be occupied as a residence.

15. TRANSPORTATION.

The CITY shall put forth its best effort as a joint applicant with the DEVELOPER regarding issues effecting surrounding roadway; whether they be Federal, State, County, Township, or City to gain approval for access (ingress and egress), widening, improvements, signalization, etc. as may be required.

IN WITNESS WHEREOF, the parties have executed this Annexation Agreement the day and year first above written.

CITY:
THE UNITED CITY OF YORKVILLE

By *Arthur H. Haskins Jr.*
MAYOR

Attest: *Deborah K. Simmons*
CITY CLERK

Unofficial

OWNER:
OLD KENT BANK, SUCCESSOR TRUSTEE
TO MERCHANTS NATIONAL BANK OF AURORA,
TRUSTEE UNDER TRUST #5085

By: Mary L. Chidester

Attest: James J. Elbert
VICE PRESIDENT & TRUST OFFICER

DEVELOPER:
COURTHOUSE SQUARE, L.L.C.

By: Arthur Sheridan
Arthur Sheridan - Beneficiary/Manager

This Instrument is executed by OLD KENT BANK, successor to MERCHANTS NATIONAL BANK OF AURORA, not personally but solely as Trustee, as aforesaid. All the warranties, covenants and conditions to be performed hereunder by OLD KENT BANK, successor to MERCHANTS NATIONAL BANK OF AURORA are undertaken by it solely as Trustee, as aforesaid and not individually. No personal liability shall be asserted or be enforceable against OLD KENT BANK, successor to MERCHANTS NATIONAL BANK OF AURORA by reason of any of the covenants, statements, representations or warranties contained in this instrument, which are made and intended for the purpose of binding only that portion of the trust property specifically described herein.

PREPARED BY AND RETURN TO:
Law Offices of Daniel J. Kramer
1107A S. Bridge Street
Yorkville, Illinois 60560
630.553.9500

EXHIBIT LIST

- Exhibit "A" - Legal description
- Exhibit "A-1" - Accurate Map of Territory to be Annexed to the United City of Yorkville, Kendall County, Illinois
- Exhibit "B" - Zoning Ordinance for O (Office District), B-1 (Limited Business District), B-2 (General Business District), list of permitted uses
- Exhibit "C" - Yorkville-Bristol Sanitary District Petition
- Exhibit "D" - Site plan
- Exhibit "E" - Landscape Plan
- Exhibit "F" - Building facades

LEGAL DESCRIPTION

That part of the Northwest Quarter of Section 29, Township 37 North, Range 7 East of the Third Principal Meridian described as follows; Beginning at the Northeast Corner of said Northwest Quarter, then South $88^{\circ}41'11''$ West, along the South Line of Oak Knolls Subdivision, 285.05 feet to the East Line of Cannonball Trail; then South $21^{\circ}49'35''$ East along said East Line, 231.90 feet to an angle point therein; thence South $68^{\circ}10'25''$ East along said East line, 5.0 feet to an angle point therein; thence South $18^{\circ}56'06''$ West along said East line 118.52 feet to an angle point; then South $21^{\circ}49'35''$ West along said East line 185.73 feet to an angle point; then South $45^{\circ}10'25''$ East along said East line 73.20 feet to the Northerly line of US Route No. 34; then Easterly along said Northerly line, 462.40 feet to the East line of said Northwest Quarter; thence North $00^{\circ}49'35''$ on said East line, 697.74 feet to the point of beginning in Bristol Township, Kendall County, Illinois and containing 6.148 acres.

PERMITTED USES

B-1 Limited Business District, the following would be permitted uses:

antique sales	household furnishing shop
bakery - retail	ice cream shop
barber shop	jewelry - retail
beauty shop	laundry, cleaning and dyeing - retail
book store	library
cafeteria (diner)	magazine and newsstand
camera shop	meat market
church or other place of worship	medical clinic
cigar, cigarette and tobacco store	mortuary - funeral home
clothes - pressing and repair	park
community center	photography studio
computer and software sales	playground
dressmaker - seamstress	post office
drugstore	professional building
florist sales	recreation center
fruit and vegetable market - retail	restaurant
gift shop	shoe and hat repair
grocery store - supermarket	
gymnasium	all special uses permitted in O District (office)
health food store	except solid waste site
hobby shop	

B-2 General Business District, the following would be permitted uses:

appliances - sales	leather goods
Army/Navy surplus sales	locksmith
art gallery - art studio sales	music, instrument and record store
art supply store	newspaper publishing, excluding printing
automatic food service	nursery - day care center
automobile accessory store	office equipment and supply sales
bicycle shop	paint/wallpaper store
billiard parlor	personal loan agency
blueprint and photostat shop	pet store
carry-out food service	picture frame store
catalog sales office	radio and television studios
clothing store - all types	reducing salon - tanning salon
convenience store	sporting goods
discount store	stationery
drygoods store - retail	taxidermist
floor covering sales	toy store
furniture sales - new/used	typewriter - sales and repair
hardware store	variety store
health club or gymnasium	watch and clock sales and repair
interior decorating studio	weaving and mending - custom
junior department store	

O - Office District, the following would be permitted uses:

advertising agency	income tax service
bank	insurance office
barber shop	library
beauty shop	manufacturing agent's office
bookkeeping service	medical clinic
club - private indoor	park
coffee shop	professional offices
college, university or junior college	public accountant
	real estate office
commercial school, trade school - offering	savings and loan association
classroom study	stenographic service
	stock broker
credit union	telegraph office
detective agency	ticket office
employment office	travel agency
engineering office	utility office
government office	

PETITION FOR ANNEXATION TO THE
YORKVILLE-BRISTOL SANITARY DISTRICT

TO: CLERK OF THE YORKVILLE-BRISTOL SANITARY DISTRICT
YORKVILLE, ILLINOIS

Old Kent Bank, successor Trustee to Merchants
THE UNDERSIGNED, Nat. Bank Aurora, Tr. 5085, being the sole owner
of the following described real estate, to wit: (SEE ATTACHED LEGAL DESCRIPTION,
EXHIBIT "A") which said real estate is contiguous with the existing boundaries of Yorkville-
Bristol Sanitary District, and is not within the corporate limits of any other sanitary district,
herewith petitions the Board of Trustees of the Yorkville-Bristol Sanitary District to annex said
real estate into the sanitary district.

The undersigned represents unto the Board of Trustees of the Yorkville-Bristol Sanitary
District as follows:

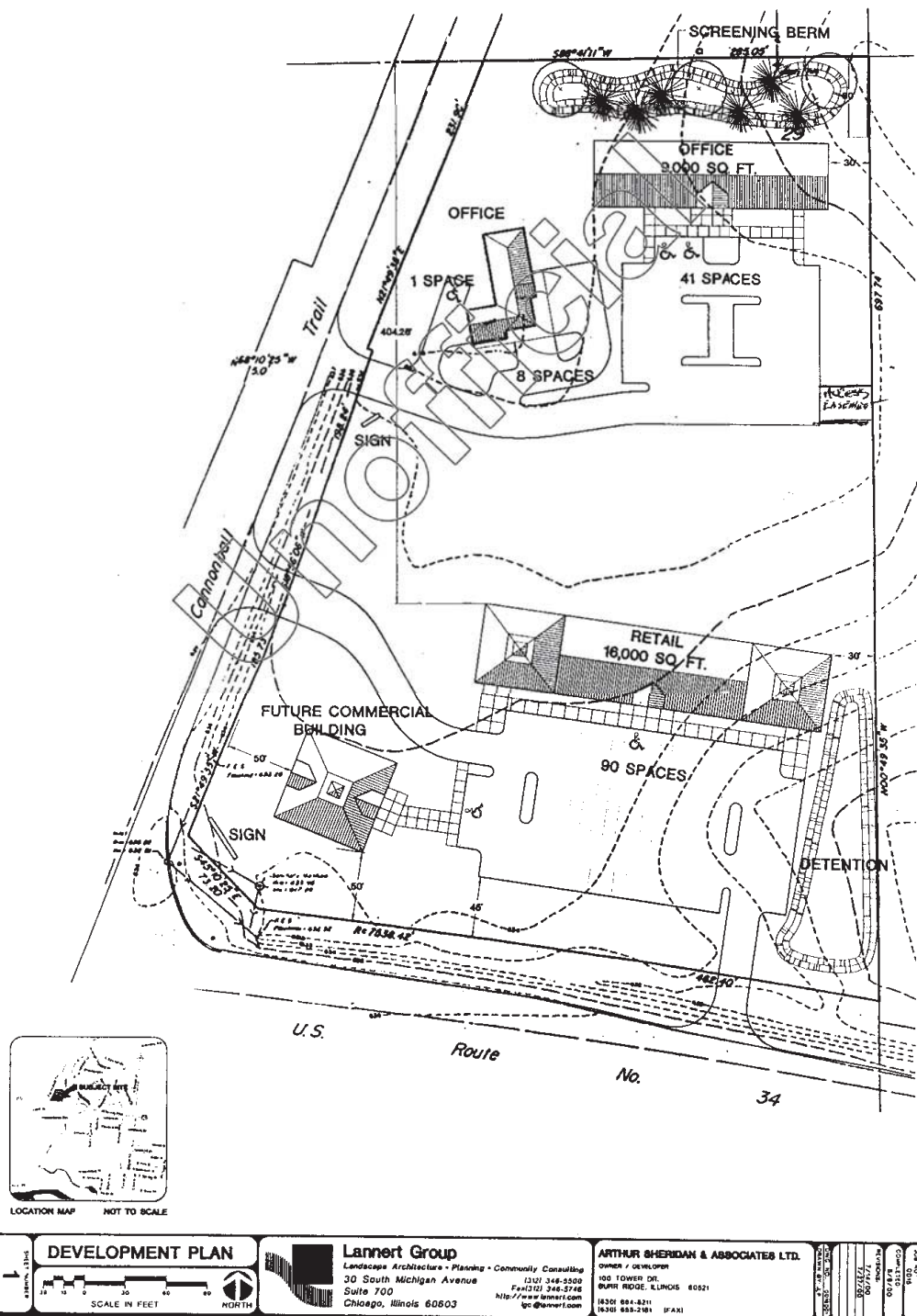
1. That said real estate is contiguous with the existing boundaries of the Yorkville-
Bristol Sanitary District, and is not within the corporate limits of any other sanitary
district.
2. That Old Kent Sucessor Trustee under tr. 5085 is the sole property owner
in the area sought to be annexed. Permanent Parcel # 02-29-100-005 &
02-29-100-004
3. (STRIKE INAPPLICABLE PARAGRAPH)
(a) That there are no electors residing upon any portion of the above described
premises;
(b) ~~That all electors residing thereon have joined in this Petition~~
~~xx~~
4. That attached hereto and forming a part of the petition are the following:
(a) Legal description of the real estate, Exhibit "A";
(b) Accurate map of the real estate, Exhibit "B".

WHEREFORE, the undersigned requests that the above Petition be submitted to the Board
of Trustees of the Yorkville-Bristol Sanitary District for consideration thereon, as required by 70
ILCS 2405/23.4, Illinois Revised Statutes.

EXHIBIT C







EXHIBIT D

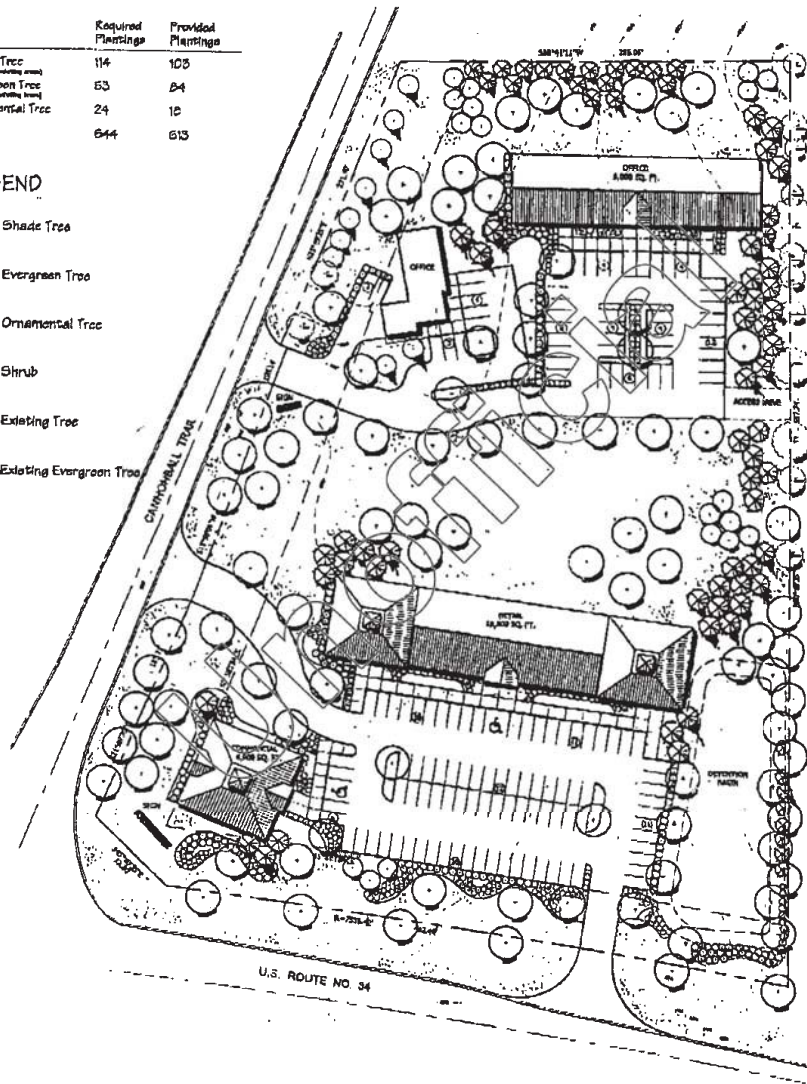
COURTHOUSE SQUARE NORTH-EAST CORNER US 34 & CANNONBALL TRAIL



	Required Plantings	Provided Plantings
Shade Tree (Minimum 8" caliper at base)	114	103
Evergreen Tree (Minimum 8" caliper at base)	53	54
Ornamental Tree	24	10
Shrub	644	613

LEGEND

-  Shade Tree
-  Evergreen Tree
-  Ornamental Tree
-  Shrub
-  Existing Tree
-  Existing Evergreen Tree



PRELIMINARY
LANDSCAPE PLAN

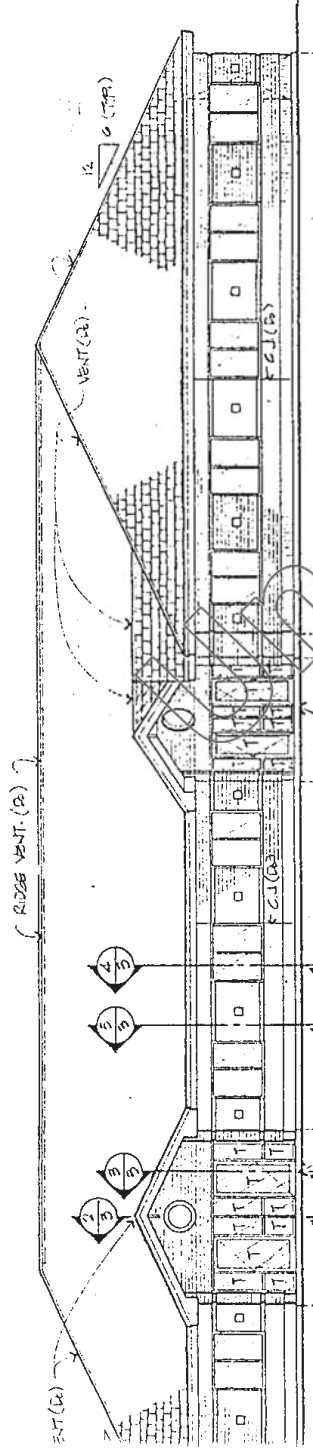
Courthouse Square
Yorkville, Illinois

Prepared by
SCHOPPE DESIGN ASSOCIATES
Landscape Architecture and Civil Engineering
3711 LOMAX ROAD
CHICAGO, IL 60654
PH: (773) 334-8900
FAX: (773) 334-8901

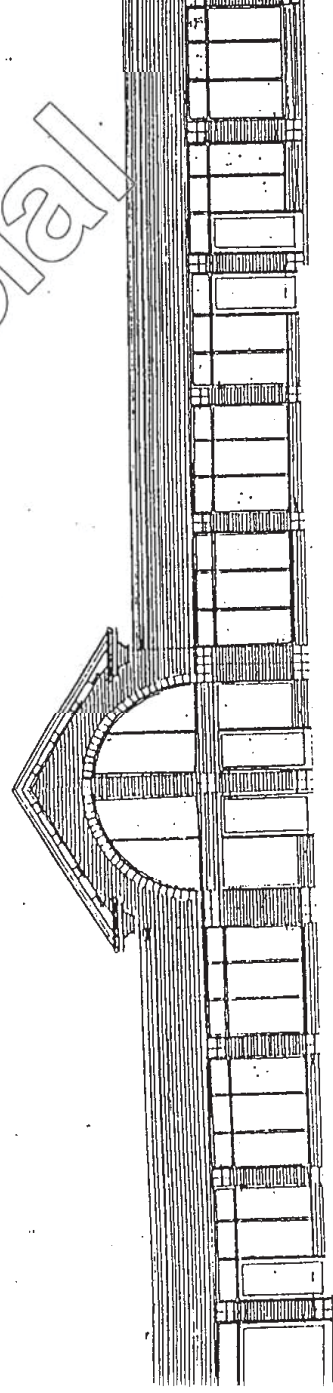
EXHIBIT E

EXHIBIT F

BRICK FACADE

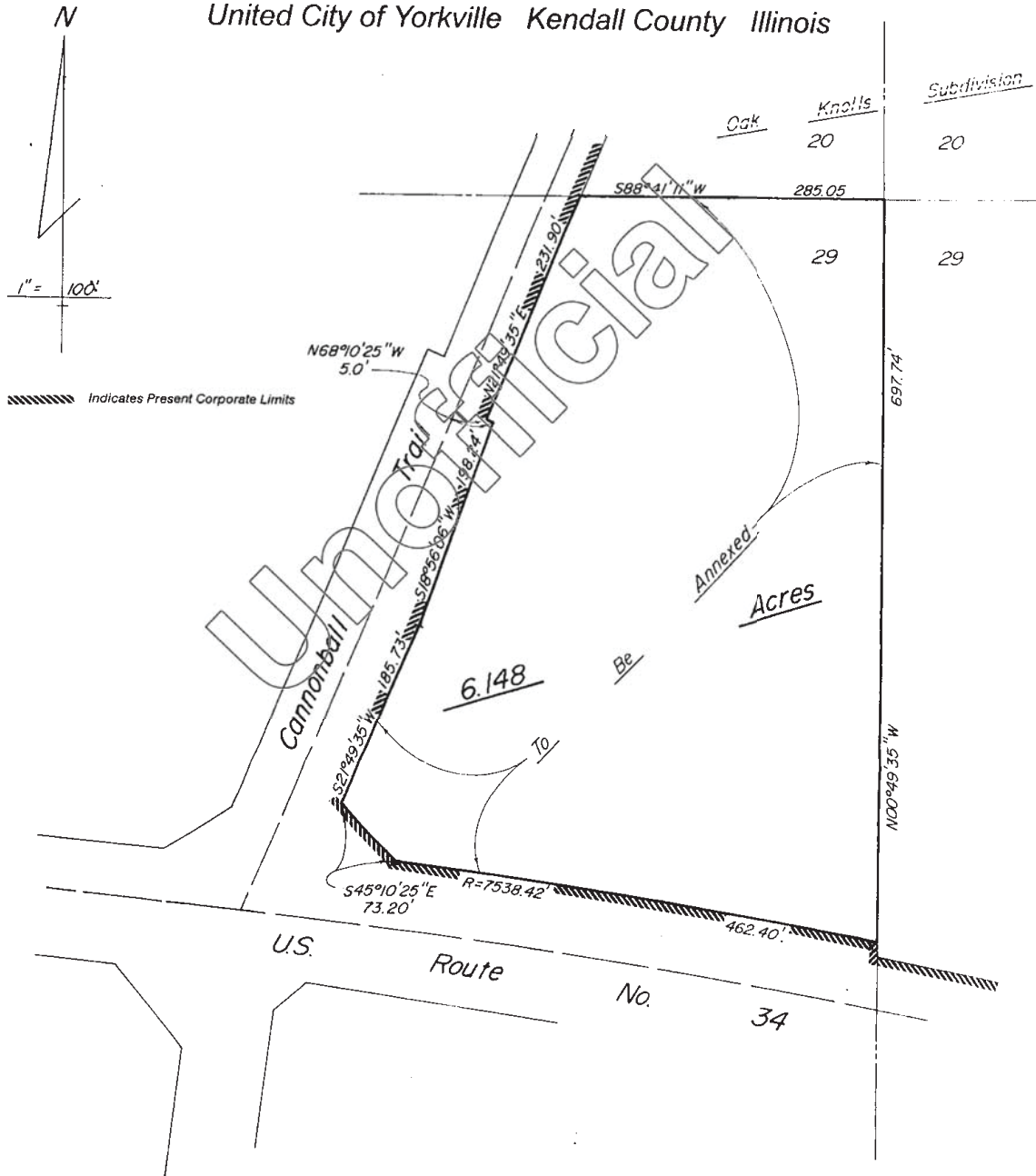


OFFICE BUILDING DESIGN



RETAIL BUILDING DESIGN

Accurate Map of
Territory to be Annexed to the
United City of Yorkville Kendall County Illinois



Prepared by:
James M. Olson Associates, Ltd.
107 West Madison Street
Yorkville, Illinois 60560
(630) 553-0050
August 25, 2000

EXHIBIT D



STATE OF ILLINOIS)
)ss
COUNTY OF KENDALL)

200800020540

RENNETTA S
MICKELSON
KENDALL COUNTY, IL

RECORDED: 9/16/2008 9:37 AM
ORDI: 54.00 RHSPS FEE: 10.00
PAGES: 18

THIS IS A COVER PAGE
FOR RECORDING
PURPOSES ONLY

STATE OF ILLINOIS)
) ss.
COUNTY OF KENDALL)

Ordinance No. 2008 66

**AN ORDINANCE OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS,
APPROVING THE FIRST AMENDMENT TO THE HRM PROPERTIES PLANNED UNIT
DEVELOPMENT AND ANNEXATION AGREEMENT**

WHEREAS, the United City of Yorkville (the "City") is a duly organized and validly existing non home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, the City entered into a Planned Unit Development and Annexation Agreement with Old Kent Bank, successor Trustee to Merchants National Bank of Aurora, as Trustee under Trust #5085 (the "Original Trustee") and Arthur Sheridan (the "Original Owner") and Courthouse Square, L.L.C. (the "Original Developer"), dated August 10, 2000 (the "Agreement"); and,

WHEREAS, the Original Trustee, the Original Owner, and the Original Developer subsequently assigned their rights in the Agreement to the First National Bank of Ottawa as Trustee under Trust #2466 and as "Owner," and HRM Properties and Development, LLC as "Developer;" and,

WHEREAS, the City and Owner and Developer now desire to amend the Agreement which will indicate the zoning of the subject property to be Planned Unit Development ("PUD") Zoning, and an ordinance approving PUD Zoning will be passed concurrently with this ordinance; and,

WHEREAS, the amendment to the Agreement will also increase the amount of commercial space with the proposed end users being a bank, gas station, day care center, and retail space with a drive thru business; and,

WHEREAS, the amendment will permit special uses for the gasoline service station and the drive thru facilities; and,

WHEREAS, a public hearing was conducted by the Plan Commission regarding the PUD amendment on June 11, 2008; and,

WHEREAS, the Mayor and City Council deem it necessary to approve the proposed First Amendment to the HRM Properties Planned Unit Development and Annexation Agreement, attached hereto, which is in the best interests of the health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the United City of Yorkville, Kendall County, Illinois, as follows:

Section 1. The above recitals are incorporated and made a part of this Ordinance.

Section 2. The attached First Amendment to the HRM Properties Planned Unit Development and Annexation Agreement is hereby approved.

Section 3. This Ordinance shall be in full force and effect upon its passage, approval, and publication as provided by law.

Passed by the City Council of the United City of Yorkville, Kendall County, Illinois this 22
day of JULY, A.D. 2008.

Lisa Pickering
DEPUTY CITY CLERK

ROBYN SUTCLIFF

ARDEN JOE PLOCHER

GARY GOLINSKI

ROSE SPEARS

JOSEPH BESCO

WALLY WERDERICH

MARTY MUNNS

BOB ALLEN

MAYOR BURD

y

—

y

n

y

Approved by me, as Mayor of the United City of Yorkville, Kendall County, Illinois, this 22
day of JULY 2008.

Valerie Burd
MAYOR

July 8, 2008 Draft
July 15, 2008 Staff Redline
Revised July 17, 2008
Revised July 18, 2008

STATE OF ILLINOIS)
) SS.
COUNTY OF KENDALL)

**FIRST AMENDMENT TO
PLANNED UNIT DEVELOPMENT AND ANNEXATION AGREEMENT
OF OLD KENT BANK SUCCESSOR-TRUSTEE TO
MERCHANTS NATIONAL BANK OF AURORA TRUSTEE UNDER TRUST #5085
AND
ARTHUR SHERIDAN (FORMER OWNER) AND
COURTHOUSE SQUARE, LLC (FORMER DEVELOPER)
N/K/A HRM PROPERTIES AND DEVELOPMENT, LLC (OWNER)
PROJECT TO BE KNOWN AS
CANNONBALL TRAILS**

THIS AGREEMENT is made and entered into this 9 day of SEPTEMBER,
2008 by and between THE UNITED CITY OF YORKVILLE, Yorkville, Illinois, a municipal
corporation, located in Kendall County, Illinois (hereinafter referred to as "CITY"), HRM
PROPERTIES AND DEVELOPMENT, LLC, an Illinois Limited Liability Company
(hereinafter referred to as "OWNER/DEVELOPER"), of the County of Kendall, State of Illinois.

WITNESSETH

WHEREAS, OWNER/DEVELOPER of the real property which is the subject matter of
said Agreement comprising of approximately 6.14 gross surveyed acres, more or less, and is

more particularly described in the attached Exhibit "A", which is attached hereto and incorporated herein by reference and is hereinafter referenced as the "SUBJECT PROPERTY"; and

WHEREAS, the SUBJECT PROPERTY is located within the corporate boundaries of the CITY; and is not located within the corporate boundaries of any other municipality; nor is any portion thereof classified as flood plain; and the SUBJECT PROPERTY was previously annexed to the CITY under Document #2000-12562 filed with the Kendall County Recorder of Deeds on September 15, 2000; and

WHEREAS, said Planned Unit Development and Annexation Agreement at the time classified various portions of the development with certain zoning classes represented by B-1 Limited Business District and B-2 General Business District under the CITY Zoning Ordinance; and provided certain restrictions of use which are hereby requested to be amended by OWNER/DEVELOPER as follows:

- 1) That OWNER/DEVELOPER requests an amendment of said Planned Unit Development conforming the existing Agreement and Zoning of the SUBJECT PROPERTY to Planned Unit Development, in conformity with the current United City of Yorkville Zoning Ordinance.
- 2) That the uses permitted under the original Planned Unit Development and Annexation Agreement shall be permitted to specifically allow as a permitted use under the PUD Classification to operate a gas station with car wash and convenience center without an hour limitation on Lot 1 of the SUBJECT PROPERTY as described in Exhibit "A".

- 3) That no more than one (1) drive-thru facility shall be permitted as a permitted use within the commercial center located on Lot 2 and on Lot 3 of the SUBJECT PROPERTY as described in Exhibit "A" for a total of two (2) drive-thru facilities on the SUBJECT PROPERTY.
- 4) That paragraph 3(b) of the original Planned Unit Development and Annexation Agreement is hereby modified to delete any reference to a lack of sanitary sewer capacity available through Yorkville Bristol Sanitary District in that it has been affirmatively represented that adequate sanitary sewer capacity currently exists to serve the SUBJECT PROPERTY.
- 5) That paragraph 8(b) of said Planned Unit Development and Annexation Agreement is hereby modified to permit the design, construction, and location of a daycare center with rear yard setback to the north as shown on the Preliminary PUD Concept Plan attached hereto and incorporated herein as Exhibit "B" (Site Plan). That the rear setback of said building shall include on the rear yard berming, landscaping, and boundary line fencing to separate its proximity to neighboring residential uses to the north in conformity with Exhibit "B" (Site Plan) and Title 8, Chapter 12 of the City Code Book in effect at the date of approval of this PUD Amendment. OWNER/DEVELOPER shall not be required to maintain a four hundred (400') setback, said condition from paragraph 8(b) of said Planned Unit Development and Annexation Agreement having been herein modified and deleted.
- 6) That paragraph 8(d) of the Planned Unit Development and Annexation Agreement shall be modified to permit parking to be calculated for the daycare use proposed

on Lot 4 of the Concept PUD Plan. Said daycare use shall provide one (1) parking space per each employee plus one (1) parking space for every ten (10) students.

- 7) That the original Planned Unit Development and Annexation Agreement shall be modified to require OWNER/DEVELOPER to comply with the current United City of Yorkville Landscape Ordinance per Title 8, Chapter 12 of the City Code.
- 8) OWNER/DEVELOPER has agreed to comply with Best Management Practices in the design, construction, and implementation of a stormwater control facility taking due account of potential chemicals, or petroleum products being detained, maintaining water quality standards and releasing no pollutants to Blackberry Creek.
- 9) OWNER/DEVELOPER is desirous of developing with the setbacks as set out in Exhibit "B" (Site Plan) attached hereto and incorporated herein by reference and which is entitled Site Plan as prepared by Koziol Engineering Services and revised May 23, 2008.

WHEREAS, the OWNER/DEVELOPER acknowledge the SUBJECT PROPERTY is within the territory described by Resolution 1995-13 and is subject to a recapture payment for water and sanitary sewer infrastructure to the CITY payable at the time of Final Subdivision Plat approval or issuance of the first building permit, whichever occurs first. Said resolution establishes a recapture payment amount per acre and requires annual interest accumulating from July 1995. The Parties acknowledge the 2008 amount of said recapture payment is \$2,670.00 per acre, totaling \$16,393.80 for the SUBJECT PROPERTY.

WHEREAS, The CITY and its Plan Commission has considered the Petition to Amend the Planned Unit Development and Annexation Agreement as to the SUBJECT PROPERTY,

WHEREAS, OWNER/DEVELOPER and their representatives have held a Public Hearing in front of the City Council on July 22, 2008, as to said requested PUD Amendment and prior to the execution of this Agreement; and said Public Hearing Notice, was duly published and a Public Hearing was held to consider this Agreement, as required by the statutes of the State of Illinois in such case made and provided; and

WHEREAS, in accordance with the powers granted to the CITY by the provisions of 65 ILCS 5/11-15.1-1 through 51.1-5, inclusive, relating to Annexation/Planned Unit Development Agreements, the parties hereto wish to enter into a binding agreement with respect to the future zoning and development of the SUBJECT PROPERTY and to provide for various other matters related directly or indirectly to the development of the SUBJECT PROPERTY in the future, as authorized by, the provisions of said statutes; and

WHEREAS, pursuant to due notice and publication in the manner provided by law, the appropriate zoning authorities of the CITY have held such public hearing and have taken all further action required by the provisions of and the ordinances of the CITY relating to the procedure for the authorization, approval and execution of this Amendment to Annexation/Planned Unit Development Agreement by the CITY.

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties agree, under the terms and authority provided in 65 ILCS 5/11-15.1-1 through 65 ILCS 5/11-15.1-5, as amended, as follows:

A. ZONING. The CITY shall adopt an ordinance approving the requested PUD Amendment as to the SUBJECT PROPERTY described herein in the attached Exhibit "A" as to the Amended Application of the Cannonball Trails Project as set out in the attached Exhibit "B";

- (i) As to each of the requests made in the Amended Application for Planned Unit Development and Annexation Agreement amendment request; and as specifically hereinafter set out, and in addition thereto the CITY hereby agrees and said Ordinance to change the zoning classifications on the SUBJECT PROPERTY pursuant to said amendment to Planned Unit Development Zoning.

B. RESTRICTIONS.

- (i) Amendment of said Planned Unit Development conforms to the existing Agreement and Zoning of the SUBJECT PROPERTY to Planned Unit Development, and conforms with the current United City of Yorkville Zoning Ordinance.
- (iii) The uses permitted under the original Planned Unit Development and Annexation Agreement are permitted to specifically allow as a permitted use under the PUD Classification to operate a gas station with car wash and convenience center without an hour limitation on Lot 1 of the SUBJECT PROPERTY as described in Exhibit "A".
- (iv) No more than one (1) drive-thru facility shall be permitted as permitted uses within the commercial center located on Lot 2 and on Lot 3 of the SUBJECT PROPERTY as described in Exhibit "A" for a total of two (2) drive-thru facilities on the SUBJECT PROPERTY..

- (v) That paragraph 3(b) of the original Planned Unit Development and Annexation Agreement is hereby modified to delete any reference to a lack of sanitary sewer capacity available through Yorkville Bristol Sanitary District in that it has been a firmly represented that adequate sanitary sewer capacity currently exists to serve the SUBJECT PROPERTY.
- (vi) That paragraph 8(b) of said Planned Unit Development and Annexation Agreement is hereby modified to permit the design, construction, and location of a daycare center with rear yard setback to the north as shown on the Concept PUD Plan attached hereto and incorporated herein as Exhibit "B" (Concept PUD Plan). That the rear setback of said building includes on the rear yard berming, landscaping, and boundary line fencing to separate its proximity to neighboring residential uses to the north in conformity with Exhibit "B" (Concept PUD Plan) and the United City of Yorkville City Code Title 8, Chapter 12 (Landscape Ordinance) that is in effect at the date of approval of this PUD Amendment. OWNER/DEVELOPER is not required to maintain a four hundred (400') setback, said condition from paragraph 8(b) of said Planned Unit Development and Annexation Agreement having been herein modified and deleted.
- (vii) That paragraph 8(d) of the Planned Unit Development and Annexation Agreement is hereby modified to permit parking to be calculated for said daycare center use proposed on Lot 4 of the Concept PUD Plan. Said daycare use shall provide one (1) parking space per each employee plus one (1) parking space for every ten (10) students.

- (viii) That the Preliminary Planned Unit Development shall comply with City Code Title 8, Chapter 12 (Landscape Ordinance).
- (ix) OWNER/DEVELOPER has agreed to comply with Best Management Practices in the design, construction, and implementation of a stormwater control facility taking due account of potential chemicals, or petroleum products being detained, maintaining water quality standards and releasing no pollutants to Blackberry Creek.
- (x) OWNER/DEVELOPER will develop with the setbacks as set out in Exhibit "B" attached hereto and incorporated herein by reference and which is entitled Site Plan as prepared by Koziol Engineering Services and revised May 23, 2008.
- (xi) That in all respects, the subject development shall be in conformance with the terms and conditions of the Yorkville Zoning Ordinance, Subdivision Control Ordinance, and all other applicable Ordinances *except to the extent* modified herein.

C. RECAPTURE. Paragraph 4 of the original Planned Unit Development and Annexation Agreement is hereby modified to include item D to state: "The OWNER/DEVELOPER shall pay the CITY an amount of \$1,500.00 per acre of the SUBJECT PROPERTY plus 6% interest per annum calculated from July 1, 1995 immediately upon approval of a Final Plat of Subdivision or at the time of issuance of the first building permit on the SUBJECT PROPERTY, whichever occurs first per Resolution 1995-13.

D. RECAPTURE AGREEMENT. In the event the CITY requests the OWNER to construct a CITY improvement beyond that needed for the proposed development or other public improvement, including oversizing and or deepening of such improvements, which will

serve property other than the SUBJECT PROPERTY, and benefit other properties, then the CITY agrees to adopt recapture ordinances to reimburse the OWNER for such expenses including construction and other costs which may reasonably be expected to be incurred by the OWNER.

E. TIME OF THE ESSENCE. It is understood and agreed by the parties hereto that time is of the essence of this Agreement and that all of the parties will make every reasonable effort, to expedite the subject matter hereof. It is further understood and agreed by the parties that the successful consummation of this Agreement requires their continued cooperation.

F. COVENANTS AND AGREEMENTS. The covenants and agreements contained in this Agreement shall be deemed to be covenants running with the land during the term of this Agreement and shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties hereto, including the CITY, its corporate authorities and their successors in office, and is enforceable by order of the court pursuant to its provisions and the applicable statutes of the State of Illinois. Except to the extent modified herein the original Planned Unit Development and Annexation Agreement entered into between the parties are hereby ratified and re-confirmed as the Agreement of the parties.

G. BINDING EFFECT AND TERM. This First Amendment to Planned Unit Development and Annexation Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and Owner of record of land which is the subject of this Agreement, assignee, lessees, and upon any successor municipal authorities of said CITY, so long as development is commenced within a period of twenty years from the date of execution of this Agreement by the CITY.

H. NOTICE. Any notices required hereunder shall be in writing and shall be served upon any other party in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the CITY:

CITY Clerk
800 Game Farm Road
Yorkville, IL 60560

With a copy to:

Kathleen Field Orr, City Attorney
800 Game Farm Road
Yorkville, IL 60560

To OWNER/DEVELOPER:

HRM Properties and Development
300 N. Lake Street
Montgomery, IL 60538
Attn: Harold Oliver

With a copy to:

Law Offices of Daniel J. Kramer
1107A S. Bridge St.
Yorkville, IL 60560

or to such other addresses as any party may from time to time designate in a written notice to the other parties.

I. ENFORCEABILITY. This Agreement shall be enforceable in any court of competent jurisdiction by any of the parties hereto by an appropriate action of law or in equity to secure the performance of the covenants herein contained.

In the event any portion of said agreement becomes unenforceable due to any change in Illinois Compiled Statutes or court decisions, said unenforceable portion of this Agreement shall be excised here from and the remaining portions thereof shall remain in full force and effect.

J. ENACTMENT OF ORDINANCES. The CITY agrees to adopt any ordinances which are required to give legal effect to the matters contained in this Agreement or to correct any technical defects which may arise after the execution of this Agreement.

Unofficial

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this
day of _____, 2008.

UNITED CITY OF YORKVILLE

By: Walter G. Wenderich
Valerie Bard, Mayor *Pro Tem*
Walter G. Wenderich

Attest: Lisa Puckering
DEPUTY CITY Clerk

Dated: 9/9/08

OWNER/DEVELOPER:
HRM PROPERTIES AND DEVELOPMENT, LLC

By: [Signature]

Attest: [Signature]

Dated: August 25, 2008

Prepared by and Return to:

Law Offices of Daniel J. Kramer
1107A S. Bridge Street
Yorkville, Illinois 60560
630.553.9500

EXHIBIT LIST

Exhibit "A"	Legal Description
Exhibit "B"	Concept PUD Plan

Unofficial

EXHIBIT "A"

LEGAL DESCRIPTION

THAT PART OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS; BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER, THEN SOUTH 88°41'11" WEST, ALONG THE SOUTH LINE OF OAK KNOLLS SUBDIVISION, 285.05 FEET TO THE EAST LINE OF CANNONBALL TRAIL; THEN SOUTH 21°49'35" EAST ALONG SAID EAST LINE, 231.90 FEET TO AN ANGLE POINT THEREIN; THENCE SOUTH 68°10'25" EAST ALONG SAID EAST LINE, 5.0 FEET TO AN ANGLE POINT THEREIN; THENCE SOUTH 18°56'06" WEST ALONG SAID EAST LINE 118.52 FEET TO AN ANGLE POINT; THEN SOUTH 21°49'35" WEST ALONG SAID EAST LINE 185.73 FEET TO AN ANGLE POINT; THEN SOUTH 45°10'25" EAST ALONG SAID EAST LINE 73.20 FEET TO THE NORTHERLY LINE OF US ROUTE NO. 34; THEN EASTERLY ALONG SAID NORTHERLY LINE, 462.40 FEET TO THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE NORTH 00°49'35" ON SAID EAST LINE, 697.74 FEET TO THE POINT OF BEGINNING IN BRISTOL TOWNSHIP, KENDALL COUNTY, ILLINOIS AND CONTAINING 6.148 ACRES.

CANNONBALL TRAILS SITE PLAN



LOT AREA (sqm)	REQUIRED	PROPOSED
FRONT YARD (m ²)	10.000%	41.51m ² (LOT 1)
SIDE YARD (m ²)	20'	N/A
REAR YARD (m ²)	20'	20' (LOT 1)
REAR YARD Adjacent to street	50'	34.85' (LOT 1)
TRANSITIONAL YARD to residential	30'	33.87' (LOT 2)
LOT COVERAGE (max)	80%	30' (LOT 1)
LOT COVERAGE (max)	80%	75.03% (LOT 1)

LOT AREA	ICR*	BUILDING AREAS	REQUIRED PARKING	PROPOSED PARKING
LOT 1 0.07 AC	21.88	3,220 SF GAS STATION	11 SPACES (3.3/1000)	14 SPACES (4.46/1000)
LOT 2 1.17 AC	21.88	1,000 SF BANK	10 SPACES (3.3/1000)	23 SPACES (4.46/1000)
LOT 3 1.26 AC	13.57	15,000 SF RETAIL	50 SPACES (3.3/1000)	83 SPACES (6.61/1000)
LOT 4 1.23 AC	6.76	1,000 SF HOMEDEAC	30 SPACES (700)	35 SPACES (4.00)
LOT 5 0.90 AC	19.80 SF		TOTAL = 101 SPACES	101 = 160 SPACES

XCR INCLUDES ALL PERMANENT HARD (IMPERVIOUS) SURFACES

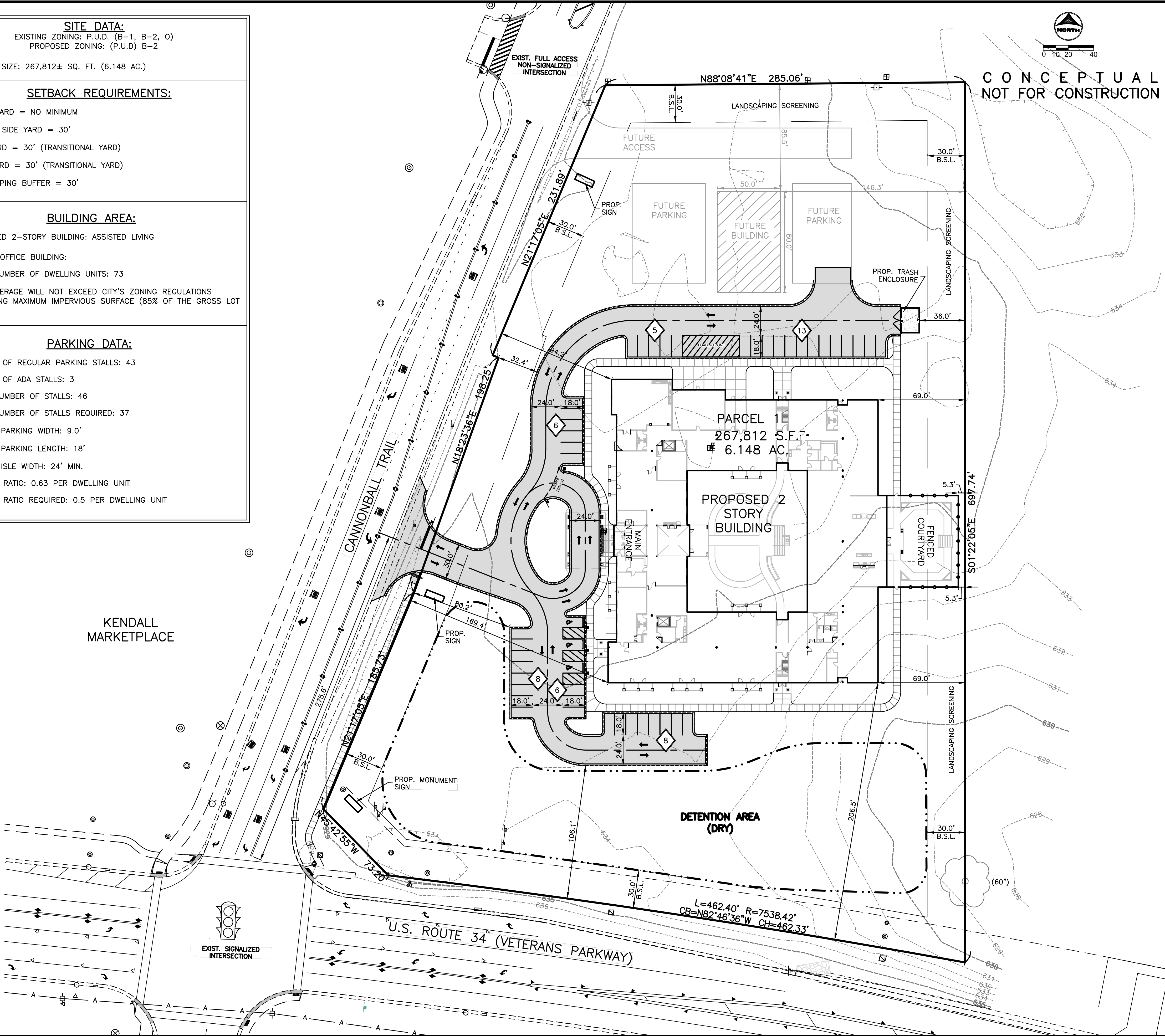
LEGEND

- [illegible]

[illegible]

Xref: 160368-xV-Survey, 160368-xV-Aerial, 160368-xCs-Survey, vgt-1-tu01, 1-bed; studio, semi-private, 1-bed ADA
2/2/2017 11:37:49 AM J:\2016\160368\CAD\Drawgs\160368-xCs-Dsgn.dwg

SITE DATA: EXISTING ZONING: P.U.D. (B-1, B-2, O) PROPOSED ZONING: (P.U.D) B-2
EX. LOT SIZE: 267,812± SQ. FT. (6.148 AC.)
SETBACK REQUIREMENTS: FRONT YARD = NO MINIMUM CORNER SIDE YARD = 30' SIDE YARD = 30' (TRANSITIONAL YARD) REAR YARD = 30' (TRANSITIONAL YARD) LANDSCAPING BUFFER = 30'
BUILDING AREA: PROPOSED 2-STORY BUILDING: ASSISTED LIVING FUTURE OFFICE BUILDING: TOTAL NUMBER OF DWELLING UNITS: 73 LOT COVERAGE WILL NOT EXCEED CITY'S ZONING REGULATIONS REGARDING MAXIMUM IMPERVIOUS SURFACE (85% OF THE GROSS LOT AREA)
PARKING DATA: NUMBER OF REGULAR PARKING STALLS: 43 NUMBER OF ADA STALLS: 3 TOTAL NUMBER OF STALLS: 46 TOTAL NUMBER OF STALLS REQUIRED: 37 TYPICAL PARKING WIDTH: 9.0' TYPICAL PARKING LENGTH: 18' TYPICAL ISLE WIDTH: 24' MIN. PARKING RATIO: 0.63 PER DWELLING UNIT PARKING RATIO REQUIRED: 0.5 PER DWELLING UNIT



NO. DATE BY REVISION DESCRIPTION



CEDARHURST OF YORKVILLE
DOVER DEVELOPMENT, LLC
YORKVILLE, ILLINOIS
DEVELOPMENT PLAN
SITE PLAN - EXHIBIT F

BAR IS ONE INCH ON
OFFICIAL DRAWINGS
0" 1"
IF NOT ONE INCH,
ADJUST SCALE ACCORDINGLY

DRAWN BY: MPL
APPROVED: DWS
JOB DATE: 01/05/2017
JOB NO: 160368

DRAWING

EX-F