



Legislation Details (With Text)

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**Title:** Receive the report on the First Amendment to the Annexation Agreement for Wagner Farms pertaining to property located at the northeast corner of Route 59 and 103rd Street - PZC 20-1-006 (File 2 of 3)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Petitioner's Letter-1.pdf, 2. Development Petition-1.pdf

Date	Ver.	Action By	Action	Result
2/18/2020	1	City Council	received	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Receive the report on the First Amendment to the Annexation Agreement for Wagner Farms pertaining to property located at the northeast corner of Route 59 and 103<sup>rd</sup> Street - PZC 20-1-006 (File 2 of 3)

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Erin Venard

**BOARD/COMMISSION REVIEW:**

N/A

**BACKGROUND:**

The subject property is approximately 113 acres, is located the northeast corner of Route 59 and 103<sup>rd</sup> Street, and is commonly known as Wagner Farms. On February 5, 2019, City Council approved the annexation of the subject property into the City of Naperville and the associated annexation agreement per Ordinances 19-020 and 19-021. City Council also approved the rezoning of approximately 105 acres of the property to R2 (Single-Family and Low Density Multiple-Family Residence District), the rezoning of approximately 8 acres of the property to OCI (Office, Commercial and Institutional District) (Ord. 19-022), a preliminary plat of subdivision (Ord 19-023), and a variance to permit off-premises signage (19-024). On May 7, 2019, City Council approved the final plat of subdivision for Wagner Farms Phase 1A, 1B, 2, and 3 per Ordinances 19-057 to 19-061.

The petitioner, Pulte Home Company LLC, requests an amendment of the Annexation Agreement for Wagner Farms with respect to certain obligations pertaining to a segment of sidewalk along Illinois Route 59, certain shared use paths, and the dormant special service area.

**DISCUSSION:**

The Wagner Farms Annexation Agreement (“Annexation Agreement”) obligated the petitioner to build both sidewalks and shared use paths, and to seek the creation of a dormant special service area to ensure the continued maintenance, repair, and operation of the shared use paths.

Part of the shared use paths connect the residential portion of the development with Naperville Park District’s Frontier Sports Complex to the north (“Connection Shared Use Paths”). A portion of the Connection Shared Use Paths are located on property owned by Commonwealth Edison (“ComEd”). Further, a segment of the sidewalk along Illinois Route 59 of the development is also located on property owned by ComEd.

The Annexation Agreement provided that petitioner was to obtain an easement from ComEd on behalf of the City in order to permit the Connection Shared Use Paths to cross ComEd property and to allow the sidewalk segment on ComEd property (referenced in the First Amendment as the “ComEd Sidewalk Segment”). ComEd was unwilling to grant an easement on its property and in lieu of the easement provided for in the Annexation Agreement, a Recreational Lease Agreement between ComEd and the Naperville Park District was negotiated that allows a portion of the Connection Shared Use Paths, and the ComEd Sidewalk Segment, to be constructed on ComEd property. The Lease is good through December 31, 2029 with a ten (10) year renewal option unless otherwise terminated. The Park District has assumed all maintenance obligations for the Connection Shared Use Paths and for the ComEd Sidewalk Segment. The attached First Amendment to the Annexation Agreement for Wagner Farms provides for these revisions.

The Annexation Agreement also obligated the petitioner to take all necessary steps to form a dormant Special Service Area (“SSA”) to provide back-up funding for the shared-use paths in the event the petitioner or the Wagner Farms Homeowners’ Association fail to perform their responsibilities relative to the shared-use paths in the future. The Agreement stipulated that the petitioner could not convey lots until the SSA had been established. The petitioner desires to begin to convey lots in late February although the SSA will not be established by then. The First Amendment to the Annexation Agreement for Wagner Farms contains a revision to the original Annexation Agreement that allows lots to be conveyed so long as the public hearing on the establishment of the dormant SSA has been held. Since the public hearing on the SSA was held on January 21<sup>st</sup> of this year, this revision will allow the Petitioner to begin conveying lots in the development in February. The revision will have no negative impact on the City’s ability to finalize formation of the dormant special service area.

**RELATED FILES**

- Conduct the public hearing on the first amendment to the annexation agreement for Wagner Farms pertaining to property located at the northeast corner of Route 59 and 103<sup>rd</sup> Street - PZC 20-1-006 (File 1 of 3)
- Pass the ordinance authorizing the First Amendment to the Annexation Agreement for Wagner Farms pertaining to property located at the northeast corner of Route 59 and 103<sup>rd</sup> Street - PZC 20-1-006 (File 3 of 3)

**FISCAL IMPACT:**

N/A