

ORDINANCE NO. F-1568

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A SECOND MINOR AMENDMENT
TO AN ANNEXATION AGREEMENT -
LEGENDS OF WHEATON SUBDIVISION**

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

WHEREAS, pursuant to acquisition of the Subject Property for Owner/Developer, the Legends of Wheaton, LLC, an Illinois limited liability company ("Legends"), is the successor in interest of Owner/Developer of the Subject Property; and

WHEREAS, the Owner in 2003 petitioned the City to amend the Annexation Agreement to modify Exhibit "G" of the Annexation Agreement; and the City determined that the requested amendment was a minor amendment that may be approved without a public hearing; and

WHEREAS, on March 17, 2003, the City approved the first minor amendment to the Annexation Agreement by Ordinance No. F-0797; and

WHEREAS, Legends has petitioned the City to further amend the Annexation Agreement to modify Paragraph 25, Public Improvements and Unimproved Lots, which states in part, "*When ninety percent (90%) of the lots contained within the Development have been granted final occupancy permits, but in no event later than five (5) years from the date of recordation of the final plat for the Development, any remaining stockpiles shall be graded over the remaining undeveloped lots and seeded, or removed from the Subject Property,*" to allow Legends to re-grade and seed the remaining stockpiles on Lots 29 & 30 and Lots 9 & 10 and leave said stockpiles in place until the top soil is removed at Legends discretion or all lots are developed.

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

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

Section 1: The Annexation Agreement is amended by deleting paragraph 25 in its entirety and substituting in its place the following:

"25. PUBLIC IMPROVEMENTS AND UNIMPROVED LOTS. Owner shall install all public improvements, except for final course of asphalt on streets, public sidewalks and parkway trees, seeding and restoration, prior to the issuance of any building permits, except as otherwise provided in Paragraph 24 of this Agreement. The final course of asphalt on all public streets shall be installed within the same construction season as the installation of the asphalt base and binder courses for said streets. During mass grading, owner may stockpile topsoil and other fill material on those areas designated in the final set of engineering plans. Stockpiles shall be constructed and protected so as not to erode, or to cause the flooding or material runoff of adjacent lots or public improvements. Owner shall submit a written proposal to the City Engineer describing and illustrating erosion and flood control methodology in the stockpile areas and shall

construct the same upon the City Engineer's direction. The City Engineer's approval of Owner's erosion and flood control proposals shall not be unreasonably withheld. When ninety percent (90%) of the lots contained within the Development have been granted final occupancy permits, but in no event later than five (5) years from the date of the recordation of the final plat for the Development, any remaining stockpiles shall be graded in place on Lots 29/30 and 9/10 and seeded. Prior to grading in place, the Developer shall submit a grading plan to the City Engineer for his approval. This Paragraph 25 shall not be deemed inconsistent with Section 62-299 of the Wheaton City Code which shall also be complied with by Owner."

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

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

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



Mayor

ATTEST:



City Clerk

Roll Call Vote:

Ayes:	Councilman Suess Councilwoman Ives Councilman Mouhelis Councilman Rutledge Mayor Gresk Councilwoman Pacino Sanguinetti Councilman Scalzo
Nays:	None
Absent:	None

Motion Carried Unanimously

Passed: June 6, 2011
Published: June 7, 2011

EXHIBIT A

THE LEGENDS OF WHEATON, BEING A SUBDIVISION IN A PART OF THE SOUTH HALF OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 1, 2002 AS DOCUMENT NUMBER R2002-255392, IN DUPAGE COUNTY, ILLINOIS.

P.I.N. 05-30-308-018 thru 022, 05-30-304-018 thru 035, 05-30-309-001 thru 018, 05-30-414-001 thru 003, 05-30-411-009 thru 017, 05-30-5-410-007 thru 017

