



City of Pekin

AGENDA

SPECIAL COUNCIL MEETING OF MONDAY, NOVEMBER 30, 2009
5:30 P.M.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE
Mayor Rusty Dunn

III. ROLL CALL
Clerk to Call the Roll.

IV. APPROVAL OF AGENDA
ACTION: *Motion to approve the meeting agenda.*

VOTE REQUIRED

V. PUBLIC INPUT ON AGENDA ITEMS
Speakers to state name, address, and spell last name. Questions unrelated to agenda items are accepted during "Public Questions" near the end of the meeting. Speakers will be limited to 3 minutes.

VI. COMMUNICATIONS, PETITIONS, REPORTS
PUBLIC HEARING

DESCRIPTION: *Hearing for the purpose of considering and hearing testimony as to the adoption of an ordinance authorizing the annexation to the City of Pekin a tract of property comprising approximately 131.908 acres of land.*

PUBLIC HEARING

DESCRIPTION: *Hearing for the purpose of discussing the Sale of Municipally Owned Property in Riverway Business Park, commonly known as 2000 S. 2nd Street PIN #10-10-10-300-006 to WHEELWORX NORTH LLC. The public will be given the opportunity to address the sale.*

VII. NEW BUSINESS

1. Ordinance No. 2602-09/10 - Authorizing the Sale and Transfer of Municipally Owned Property within the City of Pekin, Illinois

DESCRIPTION: *Authorizes the sale of 10.00 acres in RWBP to WHEELWORX NORTH LLC for the purpose of developing the acquisition site with assistance of the City to achieve the objectives of the Business Park and developer.*

(DK)

ACTION: *Motion to adopt the ordinance.*

VOTE REQUIRED

2. Ordinance No. 2603-09/10 – Approving Annexation Agreement (JW)

DESCRIPTION: Provisions of an Agreement with Estates at Lakeview, Ltd for the City to annex 131.908 acres along the Veterans Drive corridor PIN #11-11-05-100-006. The proposed Estates at Lakeview Subdivision to contain 14 residential lots and 2 commercial lots.

ACTION: Motion to adopt the ordinance.

VOTE REQUIRED

3. Resolution No. 26-09/10 – Preliminary Plat Estates at Lakeview Subdivision (JW)

DESCRIPTION: layout of 14 residential lots and 2 commercial lots in new subdivision.

ACTION: Motion to adopt the resolution.

VOTE REQUIRED

4. Ordinance No. 1568-A178-09/10 – Providing for the Rezoning of Certain Property (JW)

DESCRIPTION: Zoning assignments of lots in new subdivision Estates at Lakeview from County RR (Rural Residential) to Lots 1-14 R-1 (One-Family Residential) and from C-2 (General Business) to Lots 14 and 15 B-3(General Business)

ACTION: Motion to adopt the ordinance.

VOTE REQUIRED

VIII. ANY OTHER BUSINESS TO COME BEFORE THE COUNCIL

Council Members

Staff

Public Questions

Press Time

IX. ADJOURNMENT

With no further action to come before the Council the Mayor declares meeting closed in open session.

NO VOTE REQUIRED

Please publish once, on Saturday, November 14, 2009 and forward statement and certificate of publication to Sue E. McMillan, City Clerk, 111 S. Capitol Street, Pekin, IL 61554.

**NOTICE OF PUBLIC HEARING ON ANNEXATION ORDINANCE
TO BE ADOPTED BY THE CITY COUNCIL AND MAYOR
OF THE CITY OF PEKIN, ILLINOIS**

On Monday, November 30, 2009, at 5:30 p.m., a public hearing will be held by the Mayor and City Council of the City of Pekin, Illinois, in the Pekin City Hall, 111 S. Capitol Street, Pekin, Illinois, for the purpose of considering and hearing testimony as to the adoption of an ordinance under the provisions of 65 ILCS 5/7-1-13, authorizing the annexation to the City of Pekin, Illinois, of a tract of property comprising approximately 131.908 acres of land legally described as follows:

Tract A being Part of the Northwest Quarter of Section 5, Township 24 North Range 5 West, of the Third Principal Meridian, in Tazewell County, Illinois

PIN # 11-11-05-100-006

Commonly known as former Unland Property on East Broadway between California Road and Veterans Drive, Pekin, Illinois

It is proposed that the subject property be zoned Residential (R-1) and Business (B-3) and annexed to the City of Pekin pursuant to the provisions of Article 7, Division 1 of the Illinois Municipal Code (65 ILCS 5/7-1-1 et seq and 5/7-1-13. The ordinance and a map of the subject property proposed to be annexed to the City are on file with the City Clerk. All interested parties are invited to attend the Council Meeting and any interested persons will be given an opportunity to be heard.

By Order of the Corporate Authorities of the City of Pekin, Illinois.

Dated: November 14, 2009.

CITY OF PEKIN

By: Sue E. McMillan, City Clerk

CERTIFICATE OF PUBLICATION

THE PEKIN DAILY TIMES

Gregg Ratliff, Publisher

Pekin, Illinois, Nov. 14 20 09

I hereby certify that I am the publisher of THE PEKIN DAILY TIMES and that the annexed notice was published 1 times in the Pekin Daily Times, a secular public newspaper of general circulation, printed and published daily, except Sunday, and legal holidays, for at least 1 year prior to the 14 day of Nov. 20 09 in the City of Pekin, Tazewell County, State of Illinois: that publication of said notice was made in said newspaper as follows:

the first on the 14 day of Nov. 20 09 ;
the second on the day of 20 ;
the third on the day of 20 ;
the fourth on the day of 20 ;

I further certify that the face of the type in which each publication of the said notice was made was the same as the body type used in the classified advertising in the issue of the said newspaper in which such publication was made.

I further certify that said newspaper is a newspaper as defined in 'An Act' to revise the law in relation to notices' as amended by Act approved July 17, 1959.-Ill. Revised Statutes, Chap. 100, Para. 1-10.

Gregg Ratliff
Publisher of

THE PEKIN DAILY TIMES

Publication Fee, \$ 43.00
Posters, Slips \$ 5.00
Total \$ 48.00

By Felicia Cananore

Annex Estates Lakeview

133390

LEGAL NOTICE

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All interested parties are invited to attend the Council Meeting and any interested persons will be given an opportunity to be heard.

By Order of the Corporate Authorities of the City of Pekin, Illinois.
Dated: November 14, 2009.
CITY OF PEKIN

By: Sue E. McMillan, City Clerk

133390

11/14

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the City of Pekin, Illinois will conduct a public hearing on Monday, November 30, 2009 at 5:30 P.M. in the City Hall Council Chambers, 111 South Capitol Street, Pekin, Illinois, for the purpose of discussing the sale to WHEELWORX, LLC, the following described real estate:

Part of Lot 1 of Block 4, in Riverway Business Park Subdivision being legally described as follows:

Beginning at the southwest corner of said Block 4, said point being on the east right-of-way line of Illinois Route 29, thence North 0 Degrees 16 Minutes 12 Seconds East along said east right-of-way line and west line of Block 4 a distance of 360.92 feet; thence North 0 Degrees 39 Minutes 40 Seconds East along said east right-of-way and west Block line a distance of 36.12 feet; thence North 0 Degrees 39 Minutes 44 Seconds East along said east right-of-way and west Block line a distance of 551.40 feet to a point on a curve to the right said curve being on the north line of Block 4 and the south right-of-way line of Hanna Drive said curve having a radius of 200.00 feet and its center located South 44 Degrees 02 Minutes 46 Seconds East from said point; thence easterly along the arc of said curved south right-of-way line and north Block line a distance of 153.79 feet; thence South 89 Degrees 59 Minutes 17 Seconds East along said south right-of-way line and north Block line a distance of 747.43 feet to a point at the northwest corner of Lot 1 of Block 4; thence South 0 Degrees 02 Minutes 18 Seconds West along the west line of said Lot 1 of Block 4 a distance of 999.49 feet to a point on the south line of Block 4; thence South 89 Degrees 40 Minutes 48 Seconds West along said south line of Block 4 a distance of 894.36 feet to the Point Of Beginning, Containing 20.44 acres, more or less.

Commonly known as 2000 S. 2nd Street

Part of PIN # 10-10-10-300-006

Copies of the proposal to sell said real estate will be submitted and will be on file in the Office of the City Clerk. The City reserves the right to accept said proposal or to modify said proposal.

All persons having an interest therein may appear to be heard or may file comments concerning the proposed sale of this property in the Office of the City Clerk.

DATED at Pekin, Illinois, November 14, 2009

SUE E. MCMILLAN
CITY CLERK

CERTIFICATE OF PUBLICATION

THE PEKIN DAILY TIMES

Gregg Ratliff, Publisher

Pekin, Illinois, Nov. 14 20 09

133388

LEGAL NOTICE

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133388 11/14

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I further certify that said newspaper is a newspaper as defined in 'An Act' to revise the law in relation to notices' as amended by Act approved July 17, 1959.-Ill. Revised Statutes, Chap. 100, Para. 1-10.

Gregg Ratliff
Publisher of

THE PEKIN DAILY TIMES

Publication Fee, \$ 70.⁰⁰
Posters, Slips \$ 5.⁰⁰
Total \$ 75.⁰⁰

By Felicia Canamere

Sale Wheelworx



REQUEST FOR COUNCIL ACTION

To: Honorable Mayor and Members of the City Council

CC: Sue McMillan, City Clerk

From: Dennis Kief, City Manager (11/24/2009)

AGENDA ITEM: Contract For Sale of Real Estate and Improvements WHEELWORX

AGENDA DATE REQUESTED: November 30, 2009

ACTION REQUESTED: Approval of the Contract For Sale of Real Estate and Improvements with WHEELWORX LLC.

BACKGROUND: The City of Pekin is pleased to announce that another growing business will be locating in Pekin's Riverway Business Park. The City has received a proposal from WHEELWORX NORTH LLC. to purchase 10 acres with an option for 10.44 additional acres. This proposed 35,000 square foot building would occupy 10 acres of property. WHEELWORX will begin their Pekin's operations with approximately 38 (FTE) positions and is in the expansion mode. The City of Pekin will be holding a Public Hearing regarding the possible sale of this property at the November 30, 2009, Pekin City Council Meeting. This addition to Pekin's Riverway Business Park continues the diversification strategy of the City Administration. Steve Brown was the City's contact person on this project and Mayor Dunn and I negotiated the Contract.

FINANCIAL IMPACT: The City would receive \$147,050 for the sale of the 10 acres.

NEIGHBORHOOD CONCERNS: Complies with Zoning Requirements and Riverway Business Park Covenants

IMPACT IF APPROVED: Sale of and putting a presently undeveloped parcel in Riverway Business Park on the property tax role.

IMPACT IF DENIED: Property remains undeveloped.

ALTERNATIVES: N/A

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: Consistent with a Prosperous Community theme.

REQUIRED SIGNATURES

Department Director

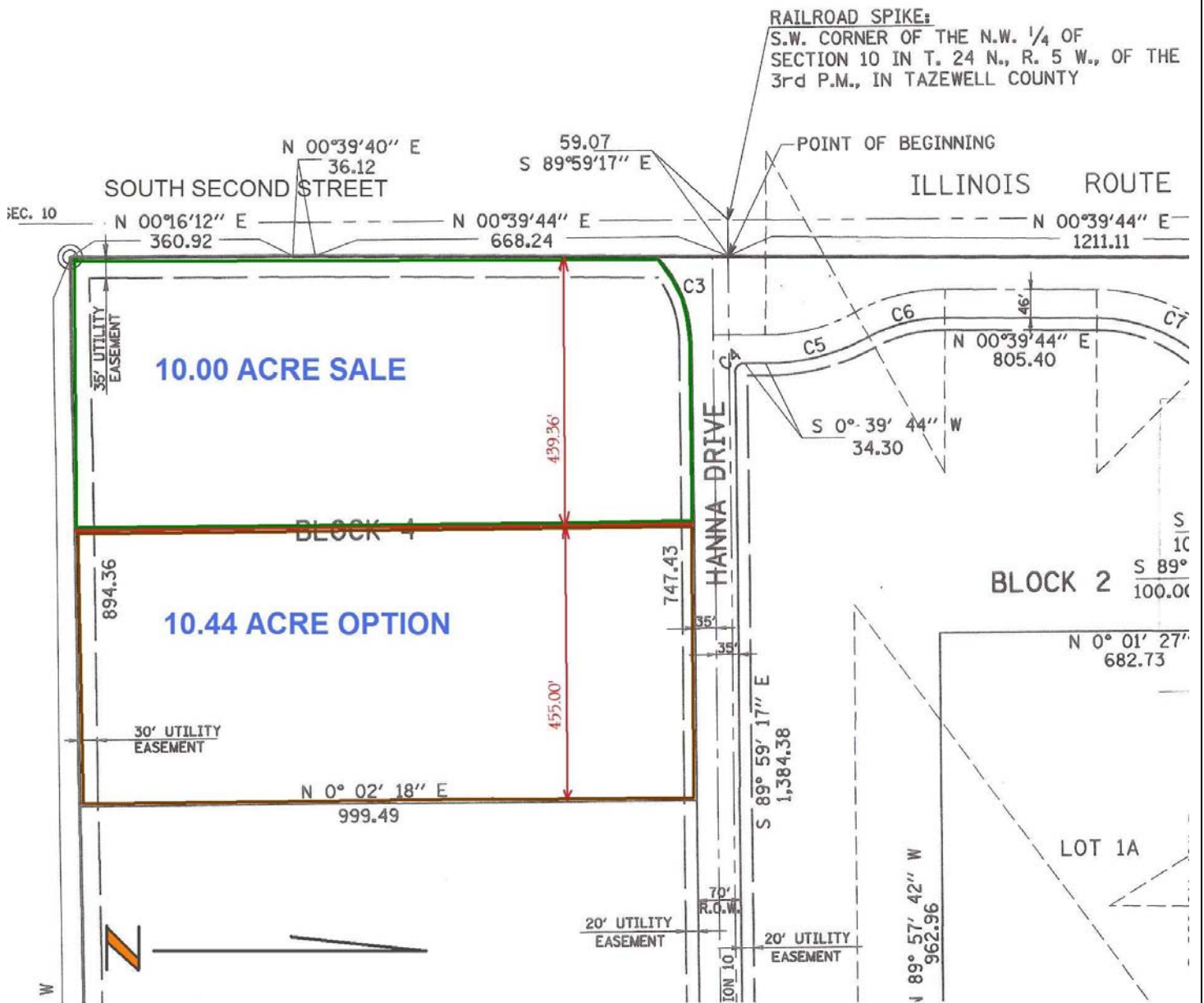
Finance Department

(Certification of Availability of Funds)

Corporation Counsel

(Certification of Review)

City Manager





City of Pekin
Office Of The
Mayor

Press Release

To: News Media

From: Mayor Rusty Dunn, City Manager Denny Kief and EDC Steve Brown

111 South Capitol Street

Pekin, Illinois 61554 – 4108

309 – 477 –2300 (Phone) 309 – 346 – 2095 (Fax)

dkief@ci.pekin.il.us

CC: City Council and City Staff

Date: November 25, 2009

Re: New Company and New Jobs Coming to Pekin's Riverway Business Park

On behalf of the Pekin City Council, we are pleased to announce that the City of Pekin has received a Letter of Intent from Wheelworx, North LLC to locate on approximately 10 acres of property in the City's Riverway Business Park. Once finalized, the agreement also includes an option to purchase an additional 10-acres in the future.

The Calera, Alabama-based company is a full-service freightcar wheelshop, manufacturing rail car wheels, with all new, state-of-the-art equipment. Wheelworx is laser-focused on putting unsurpassed quality into all of its products, something that is recognized by leading industry professionals with highly respected technical and customer service backgrounds.

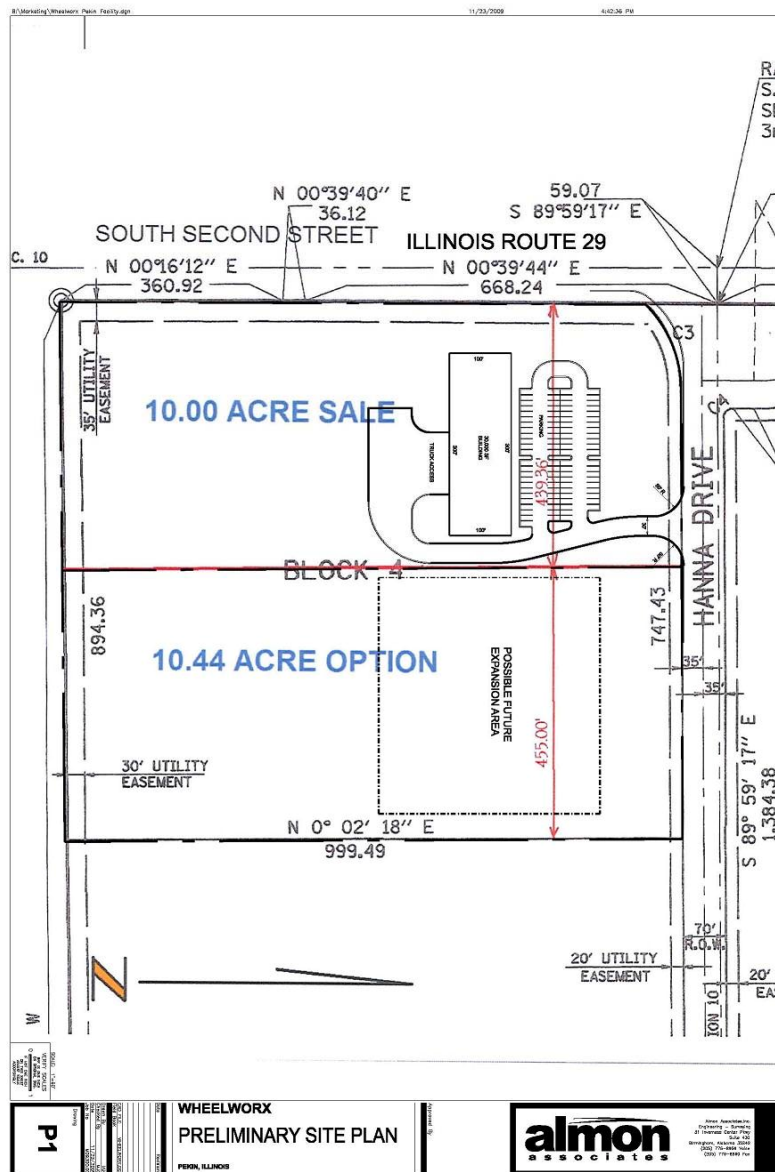
Wheelworx chose the Pekin site after a search of potential locations in Central Illinois. We are excited about the creation of 30+ jobs and the company's growth potential and long-range plans for its Pekin Facility. Their total initial investment is expected to cost \$12.5 million (land, 35,000 sq. ft. building, equipment, moving costs).

Wheelworx has developed a quality assurance program that meets or exceeds Class I industry requirements. It is their goal to produce a product that meets or exceeds AAR Standards as well as customer expectations and specifications.

The City also wishes to thank Pekin native and Wheelworx President, Gary Schoenfeldt. This is yet another positive boost to the Pekin area economy. With the purchase of this property

adjacent to Illinois Rt. 29, only 10 acres remain in the original Riverway Business Park employing now over 550 people.

We are also very pleased to announce that as the completion of Hanna Drive nears, the extension of the road from Rt. 29 to 5th Street, will allow an additional 235 acres for development and job creation in our community. This is proof that Pekin's City Council, City of Pekin Staff, and the Economic Development Advisory Committee continue to be strong advocates of business expansion in Pekin.



ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING THE SALE AND TRANSFER
OF MUNICIPALLY OWNED REAL PROPERTY
WITHIN THE CITY OF PEKIN, ILLINOIS**

WHEREAS, the City of Pekin owns the following described property (the "Property"):

TRACT I Part of Lot 1 of Block 4 (Sale)

Part of Block 4 of the Resubdivision of Riverway Business Park, being a part of the West Half of Section 10, Township 24 North, Range 5 West of the Third Principal Meridian recorded in the Records Office in Tazewell County, Illinois on January 12, 1998 as Document Number 9800686, Book 00, Pages 143 and 144 being further described as follows:

A portion of Lot 1 of Block 4 being further described as follows:

Point of Beginning at the southwest corner of said Block 4, said point being on the east right-of-way line of Illinois Route 29, thence North 0 Degrees 16 Minutes 12 Seconds East along said east right-of-way line and west line of Block 4 a distance of 360.92 feet; thence North 0 Degrees 39 Minutes 40 Seconds East along said east right-of-way and west Block line a distance of 36.12 feet; thence North 0 Degrees 39 Minutes 44 Seconds East along said east right-of-way and west Block line a distance of 551.40 feet to a point on a curve to the right said curve being on the north line of Block 4 and the south right-of-way line of Hanna Drive said curve having a radius of 200.00 feet and its center located South 44 Degrees 02 Minutes 46 Seconds East from said point; thence easterly along the arc of said curved south right-of-way line and north Block line a distance of 153.79 feet; thence South 89 Degrees 59 Minutes 17 Seconds East along said south right-of-way line and north Block line a distance of 292.43 feet; thence South 0 Degrees 02 Minutes 18 Seconds West a distance of 999.49 feet to a point on the south line of Block 4; thence South 89 Degrees 40 Minutes 48 Seconds West along said south line of Block 4 a distance of 439.36 feet to the Point Of Beginning; Containing 10.00 acres, more or less.

WHEREAS, the City Council of the City of Pekin has determined that the above-described real estate is unoccupied and not needed for or used for governmental purposes or proprietary activity and therefore, the said real estate is not required for the use of, or profitable to the

municipality; and

WHEREAS, pursuant to Section 1-9-5 of the City Code of the City of Pekin, notice has been given on the question of the sale of said real estate and was advertised in the _____, a paper of general circulation in the City of Pekin, Pekin, Illinois, having been published on February _____, _____; and

WHEREAS, the City of Pekin and WHEELWORX NORTH LLC, an Alabama Corporation ("WHEELWORX") have negotiated a Contract for Private Development (attached hereto as Exhibit A and incorporated herein by this reference) wherein WHEELWORX is to acquire the Property for the sum of \$_____; and

WHEREAS, after said public hearing on November 30, 2009, the City Council found and determined it in the best interests of the City of Pekin and its residents that the City of Pekin enter into said Contract for Private Development and sell the Property to WHEELWORX, pursuant to the terms and conditions of said Contract for Private Development; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, ILLINOIS:

SECTION I. That the City of Pekin finds as facts the recitals herein above set forth.

SECTION II. That the Contract for Private Development attached hereto as Exhibit A is hereby approved and the City of Pekin sell to WHEELWORX the following described real estate:

TRACT I Part of Lot 1 of Block 4 (Sale)

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SECTION III. In accordance with the terms of said Contract for Private Development, the Mayor of the City of Pekin, for and on behalf of the City of Pekin, is hereby authorized and directed to convey and transfer the aforesaid real estate to WHEELWORX by a proper Municipal Deed, and the City Clerk is hereby authorized to acknowledge and attest such Municipal Deed and to affix thereto the seal of the City of Pekin for and on behalf of the City of Pekin.

SECTION V. That the Mayor and the City Clerk are hereby authorized, respectively, for and on behalf of the City of Pekin, to execute and attest said Contract for Private Development and such other documents as may be necessary to consummate the transaction contemplated herein and in said Contract for Private Development.

SECTION VI. All Ordinances or portions thereof in conflict with this Ordinance are hereby

repealed.

SECTION VII. That this Ordinance shall be in full force and effect from and after its passage, by a vote of at least three-fourths of the corporate authorities now holding office, and approval in the manner provided by law.

PASSED in the due form of law by the City Council of the City of Pekin, Illinois, at its regular meeting held on the _____ day of _____, 2009; and upon roll call the vote was as follows:

CONTRACT FOR PRIVATE DEVELOPMENT

THIS AGREEMENT entered into as of the 30th day of November 2009, by and between the **CITY OF PEKIN, ILLINOIS**, a municipal corporation, and a home rule unit of local government, exercising its governmental powers pursuant to the 1970 Constitution of the State of Illinois, and having its office at City Hall, 111 S. Capitol Street, Pekin, Illinois (the "City"), and **WHEELWORX NORTH LLC.** an Alabama corporation with offices at 1952 Shades Crest Road, Birmingham, Alabama 35216 (the "Developer").

WITNESSETH:

WHEREAS, the City is the owner of certain land located in the City of Pekin, Illinois, which the City acquired for the purpose of developing a business park known as Riverway Business Park (the "Business Park") ; and

WHEREAS, the City and the Developer determined that an undeveloped site in the Business Park containing approximately **10.00 acres**, commonly known as **2000 South Second Street, Pekin, Illinois (PIN # 10-10-300-006)** which is more particularly described in **Exhibit "A"** attached hereto and made a part hereof (the "Acquisition Site") would be appropriate for Developer's Project; and

WHEREAS, the City, to achieve the objectives of the Business Park and of the Developer, intends to assist the Developer by selling to the Developer the Acquisition Site; and

WHEREAS, the Developer intends to invest a minimum of \$5,000,000 in the

development of the Acquisition Site; and

WHEREAS, the City believes that the development of the Acquisition Site is in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accordance with the public purposes and provisions of the applicable federal, state and local laws.

NOW, THEREFORE, in consideration of the premises and mutual obligations of the parties hereto, each of them do hereby covenant and agree as follows:

SECTION 1: DEFINITIONS.

A. **Definition of Terms.** Certain terms used in this agreement shall have the following meanings unless their content or use clearly indicates otherwise.

“Acquisition Site” means the real property to be acquired by the Developer, containing approximately **10.00 acres**, commonly known as **2000 South Second Street, Pekin, Illinois (PIN # 10-10-300-006)** which is more fully described in **Exhibit “A”** attached hereto.

“Agreement” means this Contract For Private Development.

“Authorized Representative” means such person at the time and from time to time designated to act on behalf of the Developer.

“Certificate of Completion” means the certificate issued by the City pursuant to Section 4B of this Agreement, which evidences completion of the Project in full compliance with the terms of this Agreement.

“City” means the City of Pekin, Illinois, a municipal corporation and home rule unit of

local government.

“Site Plan” means the preliminary rendering and preliminary site plan for the "Project" (as hereinafter defined) which are attached hereto as **Exhibit "B"**, and are subject to the approval of both the City and the Riverway Business Park Covenants Committee (the "Covenants Committee"), in accordance with the terms of this Agreement.

“Developer” shall mean WHEELWORX NORTH LLC.

“Project” means the development of the Acquisition Site by the construction, in accordance with the terms and conditions of this Agreement, of an industrial/business building containing a minimum of 35,000 square feet for use as an office, manufacturing, warehouse, and distribution facility for the conduct of Developer's business, in accordance with plans and specifications approved by both the City and the Covenants Committee in accordance with this Agreement.

B. **Construction of Words, Etc.** The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole. Unless otherwise specified, references to articles, sections and other subdivision of this Agreement are to the designated articles, sections and other subdivision of this Agreement as originally executed. The headings of this Agreement are for the convenience of reference only and shall not define or limit the provisions hereof.

SECTION 2 GENERAL DEVELOPER COVENANTS. In addition to all other specific covenants and agreements contained in this Agreement, the Developer makes

the following expressed covenants:

A. **Time.** All covenants contained in this section shall remain in full force and effect for a period of 10 years unless otherwise stated, or performed, and unless the City expressly, by written document, waives any of same.

B. **General Covenants.** The expressed covenants the Developer makes are as follows:

1. The Developer agrees to acquire the Acquisition Site as described in **Exhibit “A”** from the City for the sum of One hundred and forty-seven thousand and fifty Dollars (\$147,050) in U.S. funds (the “Purchase Price”), as further described in Section 5 of this Agreement, and the further consideration of the Developer constructing and developing a minimum 35,000 square foot building suitable for offices, manufacturing, and distribution, in accordance with the plans and specifications to be approved by the City and the Covenants Committee in accordance with this Agreement.
2. The Developer will pay and keep current all City fees that may from time to time apply to the Acquisition Site.
3. The Developer shall use the Acquisition Site for the development of a minimum 35,000 square foot building suitable for offices, manufacturing, and distribution on the Acquisition Site.
4. The Developer shall promptly pay when due all real estate taxes and assessments

which are a lien upon the Acquisition Site; provided, however, the Developer shall have the right, in good faith and by appropriate proceeding, to dispute or contest the validity or amount of any such tax or assessment, and during the pendency of any such dispute or contest, the Developer shall not be deemed to be in default under this Agreement provided the Developer has paid the disputed or contested amount under protest.

5. During the ten (10) year period of this Agreement, the Developer will not take any action or in any manner cause the Acquisition Site to be removed from the real estate tax rolls as fully taxable real property. Notwithstanding the foregoing, Developer shall benefit from the Acquisition Site's presence within the Enterprise Zone, and the special treatment available within the Enterprise Zone, as more fully described in **Exhibit "C"** attached hereto, shall be available to the Developer, as owner of the Acquisition Site. Nothing contained in this Section is intended to limit or otherwise affect such Enterprise Zone benefits which the Developer and/or the Acquisition Site would otherwise qualify for, nor shall this Section preclude the Developer and/or the Acquisition Site from receiving any other real property tax exemptions, abatements, credits, or other incentives which are otherwise applicable and available to the Acquisition Site in the future.
6. The Developer shall execute a Memorandum, in recordable form, to be recorded and indexed in the public records of Tazewell County, indicating in substance that

the Acquisition Site is subject to covenants and conditions of this Agreement.

7. The Developer shall promptly pay when due all real estate taxes affecting the Acquisition Site which accrue from the date Developer acquires title to the Acquisition Site.
8. The Developer agrees that the Developer shall not seek to remove the Acquisition Site from the Riverway Business Park Subdivision nor shall it seek to remove the Acquisition Site from the Planned Unit Development (the "PUD") in which the Business Park is located.
9. The Developer shall not commence construction of the Project on the Acquisition Site unless and until the Developer has obtained written approval of a plans and specifications for the Project and Developer's proposed use of the Acquisition Site from both the City and the Covenants Committee. The plans and specifications for the Developer's Project, as approved by the City and the Covenants Committee, are hereinafter referred to as the "Approved Plans and Specifications". Notwithstanding the foregoing, issuance by the City of a Certificate of Completion for the Project shall be conclusive evidence that all approvals by the City and the Covenants Committee has been issued with respect to the Project.
10. If, within ten (10) years of the closing of the sale of the Property, Buyer desires to resell a portion of the Property prior to its development for such related

use, Buyer will first offer to sell the Property to Seller for the Purchase Price (as hereinafter defined) but without any representations and warranties of any kind other than those set forth in a standard Statutory or Special Warranty Deed.

SECTION 3: CITY'S OBLIGATIONS AND RESERVATION OF RIGHTS.

A. Duties.

1. The City agrees to convey to the Developer the Acquisition Site in accordance with Section 5 of this Agreement.
2. The City shall cooperate and execute all documentation necessary to timely and fully comply with the provisions of the Responsible Property Transfer Act of 1988 as presently in effect or as periodically amended.
3. The City's approvals and consents are required from time to time for various purposes relating the development, and construction of the Project including, without limitation zoning, land use planning, building code and related approvals, and other matters described in this Agreement. The City agrees to timely take all lawful steps necessary from time to time to furnish all such requisite lawful approvals, consents, ordinances and related official acts, and to cooperate with Developer in all reasonable respects to assure the timely commencement and completion of the Project.

B. **Certificate of Completion.** Promptly after completion of the Project in accordance with the provisions of this Agreement, the City will execute and deliver to the Developer a Certificate of Completion, in recordable form. Said Certificate of Completion shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction with respect to the obligations of the Developer and its successors and assigns, that the construction of the Project is completed. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the Project, or any part thereof. Such certification shall not constitute evidence that the Developer, its successors and assigns have complied with the applicable provisions of federal, state and local laws, regulations and ordinances.

The certification shall be in such form as will enable it to be recorded in the Office of the Recorder of Deeds, Tazewell County, Illinois. If the City refuses or fails to provide any certification in accordance with the provisions of this Agreement, the City shall, within 30 days after written request by the Developer, provide the Developer with a written statement indicating in adequate detail in which respects the Developer has failed to complete the Project in accordance with the provisions of this Agreement, or is otherwise in default and what measures or steps will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such certification. The City shall not unreasonably withhold, condition, or delay the issuance to the Developer of the Certificate of Completion, provided all of the Developer's

obligations are met under the Agreement..

SECTION 5: SALE AND PURCHASE OF PROPERTY.

A. **Sale and Purchase of the Acquisition Site.** The City agrees to sell and USA Rail, LLC agrees to buy the Acquisition Site for the Purchase Price, on the terms set forth herein.

B. **Title.** Within fifteen (15) days after the execution of this Agreement, City shall deliver to USA Rail, LLC attorneys (at the address set forth in Section "15" below), at City's expense, a title commitment for an owner's Title insurance policy issued by a title insurance company acceptable to USA Rail, LLC in the amount of the Purchase Price, showing title in City subject only to (a) the general exceptions contained in the policy; (b) title exceptions pertaining to liens or encumbrances of an ascertainable amount which may be removed by payment of money at the time of Closing, and which City may so remove at the time by using the funds to be paid upon delivery of the deed; (c) covenants, conditions, restrictions, reservations and easements of record and zoning laws; and (d) exceptions commonly permitted under the rules for examination of abstracts and title and acceptable to USA Rail, LLC (collectively the "Permitted Exceptions"). If title insurance discloses any exceptions which adversely affect Developer's proposed use of the Acquisition Site for which render title to the Acquisition Site unmarketable, USA Rail, LLC or its attorneys shall give written notice of such exceptions to the City or its attorney of any such objectionable matters related to title (collectively, "Title Objections"). The City shall use its best efforts to cure any such Title Objections prior to closing. If City is unable to cure any such Title Objections, the USA Rail, LLC shall have the option to terminate this

Agreement by written notice to the City, in which case, neither party shall have any further rights or obligations under this Agreement.

C. **Developer's Contingencies.** The Developer's obligation to close its purchase of the Acquisition Site pursuant to this Agreement shall be contingent upon satisfaction or waiver by the Developer of the following contingencies (collectively, the "Contingencies") during the period commencing upon the full execution and delivery of this Agreement and ending on _____ (the "Inspection period"):

1. Inspection. Developer may, at Developer's expense, with reasonable prior notice to the City, at any time during the Inspection Period, have its employees, officers, and agents, including, without limitation, engineers, environmental consultants and/or other appropriate professionals, enter upon the Acquisition Site to inspect the same and to perform such soil borings, soil samplings, ground water sampling, and other tests which are reasonably necessary to determine whether: (i) the Acquisition Site is free of underground storage tanks, environmental contamination, pollution, and other environmental concerns; (ii) the soil, subsoil, and underground conditions of the Acquisition Site are structurally sound and suitable in all respects for Developer's intended use of the Acquisition Site; and (iii) there are no contaminated properties in the vicinity of the Acquisition Site which could, in Developer's sole judgment, present a risk that the Acquisition Site could become contaminated by airborne or subsoil migration of contaminants from such contaminated properties to the Acquisition Site. The Developer's obligation to perform under this Agreement shall be contingent upon Developer's

receipt of reports from such professionals which are satisfactory to Developer in its sole judgment.

2. Zoning. The Developer shall have confirmed that the Acquisition Site is properly zoned to permit the construction and use by Developer of an industrial/business building containing a minimum of 35,000 square feet of as an office, manufacturing, warehouse, and distribution facility for the conduct of Developer's business.

3. Approval of Plans and Specifications and Proposed Use. Developer shall have obtained such approvals of the Developer's plans and specifications for the Project and Developer's proposed use of the Acquisition Site from the City, the Covenants Committee, and others, as may be required under the terms of this Agreement and/or any restrictive covenants affecting the Acquisition Site, and such approvals shall be final and not subject to a condition or limitation which is unacceptable to Developer in its sole judgment.

4. Permits and Approvals. The Developer shall have obtained such licenses, permits, and approvals of governmental authorities having jurisdiction as may be required for the lawful development of the Acquisition Site and the operation by Developer of an office, manufacturing, warehouse, and distribution facility for the conduct of Developer's business, including, without limitation, the following (to the extent required): subdivision approval, storm water drainage plan approval, curb cut permits, sign permits, site plan approval by the City of Pekin, Illinois Planning Board, and issuance of a building permit by the Building Department of the City of Pekin, Illinois (collectively "Permits and Approvals"); all such Permits

and Approvals be final and not subject to appeal for reversal, and not subject to any condition or limitation which is unacceptable to the Developer in its sole judgment.

5. Utilities. Developer shall have confirmed that natural gas, electric, water, sanitary sewer, storm sewer, telephone, and other utility facilities are available at the boundaries of the Acquisition Site which are adequate to service the needs of Developer's Project, and all appropriate governmental, regulatory, administrative, and private utility company or approvals shall have been issued to allow Developer to connect to, tap into, and use such utility facilities conditioned solely upon the payment of reasonable tap-in fees and customary utility charges.

If by the end of the Inspection Period, Developer has not notified the City that either (i) all of the Contingencies have been satisfied, or (ii) any of the Contingencies which remain unsatisfied have been waived by Developer, then either party shall thereafter have the right to terminate this Agreement by giving written notice of such termination to the other, in which event, neither party shall have any further rights against the other under this Agreement.

C. **Delivery of Property Information.** Within five (5) business days after the full execution and delivery of this Agreement, the City shall deliver to the Developer copies of any environmental reports, existing surveys, soil borings tests results, engineering studies, and other materials in the City's possession or under its control which pertain to the physical condition of the Acquisition Site.

D. **Developer's Right of Entry.** From and after the full execution and delivery of

this Agreement, Developer, its officers, employees, agents, consultants, engineers, and designees shall have the right to enter upon the Acquisition Site to inspect the same and perform such tests as may be reasonably required in order for Developer to satisfy the Contingencies. Developer shall release the City and shall indemnify and hold the City harmless from and against and any and all losses, liability, claims, damages, causes of action, costs, and expenses brought on account of injury to person or property or loss of life arising from or notice of entry by Developer, its officers, employees, agents, consultants, engineers, and designees on the Acquisition Site between the date of the full execution and delivery of this Agreement and the date of Closing.

E. **Delivery of Municipal Deed.** At Closing, on full payment of the Purchase Price and execution of this Development Agreement by the Developer, the City shall convey said the Acquisition Site to the Developer by municipal deed subject to the Permitted Exceptions, and subject to any acts of the Developer.

F. **Closing.** The closing of the transaction contemplated herein shall be held at the offices of the attorney for the City (at the address set forth in Section "15" below) on _____ **at** _____ or at such other location and time as may be mutually acceptable to City and Developer (the "Closing Date" or the "Closing"). Time is not of the essence with respect to the time and date specified herein for Closing. However, either party shall have the right to make time of the essence with respect to the Closing, by giving at least ten (10) days prior written notice to that effect to the other party; provided that the date specified in any such

notice making time of the essence with respect to Closing shall be on or after _____.

G. **Taxes.** The City shall pay the general real estate taxes, if any, for the tax year 2009, payable in 2010, and for the tax year 2010, payable in 2011, on a prorated basis up to the date of closing hereunder. The Developer shall pay the general real estate taxes for the balance of the year 2010 and each year thereafter. Prorating shall be on the basis of the amount of the most recent ascertainable tax.

H. **Possession.** Developer shall be entitled to possession of said property upon payment of the Purchase Price and delivery of deed as herein provided.

I. **Option.** An agreement in the form attached is hereto Exhibit “D” (the Option Agreement) for the purchase of the property described as Tract II (the Option Property) on or before the first (1st) anniversary of the Closing Date for a purchase price of Five Thousand and 00/100 Dollars (\$5,000.00) per acre and the same general terms and conditions as set forth herein.

SECTION 5: DEVELOPER’S OBLIGATIONS AND RIGHTS.

A. **Conformance to Federal, State and Local Requirements.** All work with respect to the Project shall conform in all material respects to all applicable federal, state and local laws, regulations and ordinances, including but not limited to building codes, life safety codes, storm water retention and sewer codes, and the Prevailing Wage Act.

B. **Improvements Commencement and Completion Requirements.**

1. **Time Limitations.** Absent Unavoidable Delay (as hereinafter defined), the Developer shall commence the construction improvements referred to herein on or before May 1, 2010 (hereinafter referred to as "Commencement Date") and shall substantially complete construction of the improvements on or before April 30, 2012 (hereinafter referred to as "Completion Date"). For Purposes of this Agreement, the term "Unavoidable Delay" shall mean strikes, lockouts, casualties, acts of God, war, unavailability of material or labor, atypical governmental regulation or control, inclement weather that is an impediment to construction, atypical delays initiated by the City or other causes beyond the reasonable control of Developer. The Completion Date set forth above shall be extended for the amount of time of such Unavoidable Delays
2. **Commencements and Completion.** Developer shall cause construction of the improvements to be commenced and to be prosecuted with due diligence and in good faith and without delay. Developer shall cause the improvements to be constructed in a good and workmanlike manner in material compliance with the Site Plan and the Plans and Specifications approved by the Covenants Committee, and in material compliance with all applicable laws, rules, permits, requirements and regulations of any governmental agency or authorities having jurisdiction over the Acquisition Site or the improvements to be constructed thereon, and will not cause, permit or allow any substantial deviations

from such approved Plans and Specifications without the prior written consent of the City.

C. **Use of Acquisition Site.** The Acquisition Site shall be utilized for construction and use by developer of an industrial/business building containing a minimum of 35,000 square feet of as an office, manufacturing, warehouse, and distribution facility for the conduct of Developer's business, or similar use and which will be occupied by the Developer. Any assignment of this Agreement to an entity other than Developer or an affiliate of Developer prior to the issuance by the City of a Certificate of Completion shall be subject to the prior written consent of the City. Use of the Acquisition Site shall be in accordance with applicable local, state and federal laws and regulations, including but not limited to storm water retention and sewer codes, and in accordance with the Riverway Business Park Covenants.

D. **Changes in Construction Plans.** If the Developer desires to make any substantial change in the construction plans which significantly affects the appearance, function, or structural integrity of the Project, the Developer shall submit the proposed change to the City for its approval. If the construction plans, as modified by the proposed change, conform to the requirements of the PUD and Riverway Business Park Covenants, meet all applicable legal requirements and do not create a substantial change in the nature or aesthetics of the Project, the City shall approve the proposed change and notify the Developer in writing of its approval; provided however, that, if such change is not so approved or rejected within ten (10) working days of receipt of the submission to the City by the Developer, such change will be deemed

approved.

E. **Contract Prohibitions.** Unless otherwise previously agreed by the City in writing or deemed approved in accordance with Section "5.D" above all contracts let by Developer or Developer's contractor in connection with construction of the improvements shall contain a prohibition against any material change in the plans involving a structural, square footage, design change or other substantial change without the City's prior written consent or deemed consent being had thereto; such consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that, if any such changes are not so approved or rejected within ten (10) working days of receipt of the submission to the City by the Developer, such change will be deemed approved.

F. **Responsibility For Construction.** It is expressly understood that the Developer shall bear the sole responsibility of ascertaining whether or not the construction work was done in an appropriate manner consistent with this Agreement and consistent with any other requirements of this Agreement. The Developer acknowledges and understands that the City shall not have any obligation whatsoever with respect to construction of the Project, it being the sole responsibility of the Developer.

G. **FIRPTA.** Developer shall cooperate and execute all documentation necessary to timely and fully comply with the provisions of the Responsible Property Transfer Act of 1988 as presently in effect or as periodically amended.

H. **Liability Insurance.** Developer or Developer's contractor shall procure

and deliver to City at Developer's or such contractor's cost and expense, and shall maintain in full force and effect until each and every of the obligation of Developer contained herein has been fully paid, or performed, a policy or policies of comprehensive liability insurance in an amount not less than one Million (\$1,000,000.00) Dollars per occurrence and One Million (\$1,000,000.00) Dollars in the aggregate annually; and, during any period of construction, Developer shall carry or cause its contractors to carry contractor's liability insurance, builder's risk insurance, worker's compensation insurance, all such policies to be in such form and issued by such companies as shall have been approved by the City to protect City and Developer against any liability incidental to the use of or resulting from any accident occurring in or about the Project or the improvements or the construction and improvement thereof. Each such policy or certificate thereof shall contain an affirmative statement by the issuer to give written notice to the City at least 30 days prior to any cancellation or amendment of its policy.

SECTION 6: REPRESENTATIONS OF THE DEVELOPER. The Developer represents, warrants and agrees as the basis for the undertakings on its part herein contained that:

A. **Non-Conflict or Breach.** Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of any offering or disclosure statement made or to be made on behalf of the Developer or of any restriction, agreement or instrument to which the Developer is now a party or by which the Developer is bound, nor does the consummation of the

transactions contemplated thereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance whatsoever upon the Project or upon any assets of the Developer or any related party under the terms of any instrument or agreement to which the Developer or any related party is now a party or by which the Developer or any related party is bound.

B. **Revenue Act Compliance.** Developer certifies pursuant to 65 ILCS 5/11-42.1-1 that it is not delinquent in the payment of any tax administered by the Illinois Department of Revenue.

SECTION 7: ADDITIONAL COVENANTS OF THE DEVELOPER.

A. Sale of Acquisition Site.

1. Developer represents and warrants that it will not, prior to the commencement of construction of the Project, except for the purpose of the securing a mortgage for the purpose of obtaining financing for the purchase of the Acquisition Site and the construction of the Project and for utility easements, make or create any total or partial sale, assignment, conveyance, lease, trust or power or any other transfer (“Transfer”) of the Acquisition Site, or any portion thereof, or of this Agreement without the prior written consent of the City; provided, however, that as a condition of any such Transfer, the transferee must agree to be bound by the terms and conditions of this Agreement.

2. Developer may Transfer the Acquisition Site and the Project from and after the Commencement Date and prior to the Completion Date with the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that as a condition of such Transfer, the transferee must agree to be bound by the terms and conditions of this Agreement.
3. The City shall act reasonably and promptly in responding to any requests for Transfer under this **Section 8A**.

B. **Indemnification Covenants.** The Developer agrees for itself, its successors and assigns, to indemnify and save the City and its officers and employees harmless against all claims by or on behalf of any person, firm or corporation arising from any of the following, to the extent such claims arise between the date of this Agreement and the date on which the Certificate of Completion is issued by the City to the Developer: (i) the conduct or management of, or from any work or thing done on the Project, (ii) any breach or default on the part of the Developer or its successors and assigns in the performance of any of its obligations under this Agreement, (iii) any act of negligence of the Developer or any of its agents, contractors, servants, employees or licensees, (iv) any act of negligence of any assignee, lessee or sublessee of the Developer, or any agents, contractors, servants, employees or licensees of any assignee, lessee or sublessee of the Developer, or (v) any violation by the Developer or any other person of state or federal securities law in connection with the offer and sale of limited

partnerships in the Developer or any part of the Project (collectively, "Claims"). The Developer agrees to indemnify and save the City harmless from and against all costs and expenses incurred in or in connection with any such Claim arising as aforesaid or in connection with any action or proceeding brought thereon. In case any such Claim shall be made or action brought based upon any such Claim in respect of which indemnity may be sought against the Developer, upon receipt of notice in writing from the City setting forth the particulars of such Claim or related action, the Developer shall assume the defense thereof, including the employment of counsel reasonably acceptable to the City and the payment of all related costs and expenses. The City shall have the right to employ separate counsel in any such Claim-related action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the City unless the employment of the counsel has been specifically authorized by the Developer.

SECTION 8: EQUAL EMPLOYMENT OPPORTUNITY. The Developer, for itself and its successors and assigns, agrees that during the construction of the improvements provided for in this Agreement that the following will apply:

A. **Non-Discrimination.** The Developer will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex or national origin. The Developer shall take steps to insure that applicants are employed, and the employees are not discriminated against during employment by reason of their race, color, religion, sex or natural origin, in matters including, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other

forms of compensation, and selection for training, including apprenticeship.

B. **Advertising.** The Developer shall, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

C. **Non-Compliance.** In the event of the Developer's non-compliance with the non-discrimination clauses of this section, this Agreement may be canceled, terminated, or suspended in whole or in part by written notice given by the City to the Developer; provided, however, that no such termination notice shall be given by the City to the Developer unless and until the City has given the Developer prior written notice of the alleged noncompliance and a reasonable opportunity to cure the same.

SECTION 9: FURTHER ASSISTANCE AND CORRECTIVE INSTRUMENTS.

The City and the Developer agree that they shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required from time to time, for carrying out the intention of or facilitating the performance of this Agreement.

SECTION 10: UNAVOIDABLE DELAY IN PERFORMANCE. For the

purpose of any of the provisions of this Agreement, except with regard to payment of real estate taxes as provided herein, neither the City, nor the Developer, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations with respect to

the purchase of the Acquisition Site, the preparation of the Acquisition Site for development, or the beginning and completion of construction of the improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligation due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to acts of God, acts of the public enemy, acts of federal, state or local government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, acts of nature, unusually severe weather or delays of subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the City with respect to the purchase of the Acquisition Site or of the Developer with respect to construction of the improvements as the case may be, shall be extended for the period of the enforced delay. Provided, that the party seeking the benefit of the provisions of this section shall, within 60 days after the beginning of any such enforced delay, have first notified the other party thereof in writing, of the cause or causes thereof, and request an extension of the period of enforced delay. Any such extension shall be in writing and signed by the parties hereto.

SECTION 11: EVENTS OF DEFAULT AND REMEDIES.

A. **Events of Default.** The following shall be events of default with respect to this Agreement:

1. If any material representation made by the Developer in this Agreement, or in any certificate, notice, demand or request made by the Developer, in writing

and delivered to the City pursuant to this Agreement shall prove to be untrue or incorrect in any material respect as of the date made; or

2. Default in the performance or breach of any covenant, warranty or obligation of the Developer or the City in this Agreement, if such default continues for a period of ten (10) business days after notice of default has been given by the City to the Developer; provided, however, that, in the event and that the alleged breach of this Agreement is of such a nature that the same cannot be fully cured within a ten (10) business day period, then the Developer's failure to comply with this Agreement shall not be an enforceable event of default hereunder so long as the Developer commences the curing of such failure within said ten (10) business day period, and proceeds thereafter with diligence and in good faith to fully cure the same; or
3. The entry of a decree or order by a court having jurisdiction granting relief with respect to Developer in an involuntary case under the Federal Bankruptcy Laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Developer for any substantial part of its property, or ordering the winding-up or liquidation of its affairs, provided any such decree or order remains unstayed and in effect for a period of 60 consecutive days; or

4. The commencement by the Developer of a voluntary case for relief under the Federal Bankruptcy Laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by Developer to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Developer's business or of any substantial part of its property, or the making by Developer of any assignment for the benefit of creditors or the failure of the Developer in furtherance of any of the foregoing.

B. **Remedies on Default.**

1. **Default in Construction of Improvements.** In the event Developer defaults under the provisions of **Section 5B** of this Agreement, Developer shall reconvey the Acquisition Site to the City, upon demand, by Deed, and the City shall refund to the Developer the Purchase Price. The issuance by the City of a Certificate of Completion to the Developer shall be conclusive evidence that the City has irrevocably waived its right to require the Developer to reconvey title to the Acquisition Site to the City under any circumstances.
2. **Injunctive Relief.** The parties agree and acknowledge that the remedy at law for any breach of the provisions of **Section 5C** of this Agreement will be inadequate and the City, its successors or assigns, shall be entitled to injunctive relief against any such breach without bond. The injunctive relief shall not be

exclusive, but shall be in addition to any other rights or remedies which the City may have for any such breach.

3. Notice of Default. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by either party hereto or any successors to such party, such party or successor shall, upon written notice from the other, take immediate action to cure or remedy such default or breach, and, in any event, within 30 days after receipt of such notice. If such course of action is not taken, or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its option to cure or remedy such default or breach.
4. Non-limitation of Remedies. This section shall in no way limit the remedies of the City and Developer pursuant to the other sections of this Agreement and pursuant to law and equity in the event of default by either party.
5. Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement (or their successors in interest) whether provided by law or by this Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the time or different times, of any other such remedies for the same default or breach by the other part. No waiver made by either such party with respect to the performance, nor the

manner of time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

C. **Agreement to Pay Attorney's Fees and Expenses.** In the event a party should default under any of the provisions of this Agreement and the other party should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement as provided herein, the losing party agrees that it will, on demand therefore, pay to the prevailing party the reasonable fees of such attorneys and such other expenses so incurred by the prevailing party with respect to the issues upon which the prevailing party has prevailed.

D. **No Waiver By Delay.**

1. Any delay by the City in instituting or prosecuting any actions or proceedings or otherwise asserting its rights under this Agreement shall not operate to act as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that the City should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this section because of concepts of waiver, laches or otherwise) to exercise such

remedy at a time when it may still hope to otherwise resolve the problems created by the default involved; nor shall any waiver in fact made by the City with respect to any specific default by the Developer under this section be considered or treated as a waiver of the rights of the City, with respect to any other defaults by the Developer under this section or with respect to any defaults under any section in this Agreement or with respect to the particular default, except to the extent specifically waived in writing by the City.

2. Any delay by the Developer in instituting or prosecuting any actions or proceedings or otherwise asserting its rights under this Agreement shall not operate to act as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that the Developer should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this section because of concepts of waiver, laches or otherwise) to exercise such remedy at a time when it may still hope to otherwise resolve the problems created by the default involved; nor shall any waiver in fact made by the Developer with respect to any specific default by the city under this section be considered or treated as a waiver of the rights of the Developer, with respect to any other defaults by the City under this section or with respect to any defaults under any section in this Agreement or with respect to the particular default, except to the extent specifically waived in writing by the Developer.

SECTION 12: PROVISIONS NOT MERGED WITH DEED. None of the provisions of this Agreement are intended to, nor shall they be merged by reason of any deed transferring title to the Acquisition Site from the City to the Developer or any successor in interest, and said deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

SECTION 13: CONFLICT OF INTEREST. No member, officer, or employee of the City or its designees or agents and no member of the governing body of the City during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof, with respect to which this Agreement shall apply.

SECTION 14: REAL ESTATE COMMISSIONS. Each of the parties represents to the other that it has not incurred and will not incur any liability for brokerage fees or agent commissions in connection with this Agreement, and City and Developer each agree to indemnify and hold the other harmless from and against any and all claims or demands with respect to any brokerage fees or agents' commissions or other compensation asserted by any person, firm, or corporation in connection with this Agreement or the transactions contemplated hereby, insofar as any such claim is based upon any conversation or contract with City or Developer, respectively.

SECTION 15: NOTICES. All notices required and provided for in this Agreement shall be sent to the following parties on behalf of the City and the Developer.

To the City:

Dennis Kief
City Manager
City Hall
111 S. Capitol Street
Pekin, IL 61554

with copies to Corporation Counsel.

To Developer:

Gary Schoenfeldt
1480 Woodbine Avenue
P.O. Box 759
Calera, Alabama 35040

With copies to:

Tim Segers.
Balch & Bingham, LLP
PO Box 306
Birmingham, AL 35201

All notices given in accordance with this Section shall be deemed to have been sufficiently given if personally delivered or sent by nationally recognized overnight courier service (such as Federal Express, Airborne Express, etc.). Notices given in accordance with this Section shall be deemed to have been given (i) if personally delivered, upon delivery; or (ii) if sent by nationally recognized overnight courier service, one day after sending. Either party may, by written notice given in accordance with this Section, designate a different address or addresses to which such

notices shall be sent.

SECTION 16: CONSTRUCTION OF AGREEMENT/VENUE. This Agreement shall be construed pursuant to the laws of the State of Illinois. As a substantial portion of the duties and obligations of the parties created hereunder are performable in Tazewell County, Illinois, Tazewell County, Illinois shall be the sole and exclusive venue for any litigation or other proceedings as between the parties that may be brought, or arise out of , or in connection with or by reason of this Agreement.

SECTION 17: COUNTERPARTS. If this Agreement is executed in two or more counterparts, each shall constitute one and the same instrument and shall be recognized as an original instrument.

SECTION 18: TAX DEFERRED EXCHANGE. The City acknowledges that the Developer may wish to treat this transaction as a tax deferred exchange pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder. Accordingly, the City agrees to cooperate with Developer's efforts to structure such an exchange. Should the Developer notify the City of its election to do so, this transaction shall be structured and completed so as to constitute as to the Developer a nontaxable exchange of real property held for productive use in a trade or business or for investment within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder. The City and the Developer agree to execute such additional riders to this Agreement or such other documentation as may be necessary to insure that the purchase

satisfies the requirements of Section 1031. Notwithstanding the foregoing, the City's cooperation and compliance with this Section shall be at no additional expense or liability to the City. Any and all reasonable expenses related hereto shall be reimbursed to the City by the Developer within 30 days of receipt.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and caused their respective seals to be affixed and attested thereto as of the date first written above in this Agreement.

CITY

CITY OF PEKIN, an Illinois municipal corporation

By: _____
Its Mayor

ATTEST:

By: _____
Its City Clerk

DEVELOPER

WHEELWORX NORTH LLC.,
An Alabama corporation

By: _____
Gary Schoenfeldt

ATTEST:

By: _____
Its: _____

This Instrument Prepared By:

Burt Dancey

Assistant Corporation Counsel

109 So. Fourth St., P.O. Box 873

Pekin, IL 61555-0873 Telephone: (309) 346-4148

LIST OF EXHIBITS

Exhibit "A"	Legal Description of Acquisition Site
Exhibit "B"	Preliminary Rendering and Site Plan for Project
Exhibit "C"	Description of Enterprise Zone Benefits
Exhibit "D"	Option Agreement

EXHIBIT "A" TO DEVELOPER AGREEMENT

Legal Description of Acquisition Site

TRACT I Part of Lot 1 of Block 4 (Sale)

Part of Block 4 of the Resubdivision of Riverway Business Park, being a part of the West Half of Section 10, Township 24 North, Range 5 West of the Third Principal Meridian recorded in the Records Office in Tazewell County, Illinois on January 12, 1998 as Document Number 9800686, Book 00, Pages 143 and 144 being further described as follows:

A portion of Lot 1 of Block 4 being further described as follows:

Point of Beginning at the southwest corner of said Block 4, said point being on the east right-of-way line of Illinois Route 29, thence North 0 Degrees 16 Minutes 12 Seconds East along said east right-of-way line and west line of Block 4 a distance of 360.92 feet; thence North 0 Degrees 39 Minutes 40 Seconds East along said east right-of-way and west Block line a distance of 36.12 feet; thence North 0 Degrees 39 Minutes 44 Seconds East along said east right-of-way and west Block line a distance of 551.40 feet to a point on a curve to the right said curve being on the north line of Block 4 and the south right-of-way line of Hanna Drive said curve having a radius of 200.00 feet and its center located South 44 Degrees 02 Minutes 46 Seconds East from said point; thence easterly along the arc of said curved south right-of-way line and north Block line a distance of 153.79 feet; thence South 89 Degrees 59 Minutes 17 Seconds East along said south right-of-way line and north Block line a distance of 292.43 feet; thence South 0 Degrees 02 Minutes 18 Seconds West a distance of 999.49 feet to a point on the south line of Block 4; thence South 89 Degrees 40 Minutes 48 Seconds West along said south line of Block 4 a distance of 439.36 feet to the Point Of Beginning; Containing 10.00 acres, more or less.

TRACT II Part of Lot 1 of Block 4 (Option)

Part of Block 4 of the Resubdivision of Riverway Business Park, being a part of the West Half of Section 10, Township 24 North, Range 5 West of the Third Principal Meridian recorded in the Records Office in Tazewell County, Illinois on January 12, 1998 as Document Number 9800686, Book 00, Pages 143 and 144 being further described as follows:

A portion of Lot 1 of Block 4 being further described as follows:

Beginning at the southwest corner of said Block 4, said point being on the east right-of-way line of Illinois Route 29, thence North 0 Degrees 16 Minutes 12 Seconds East along said east right-

of-way line and west line of Block 4 a distance of 360.92 feet; thence North 0 Degrees 39 Minutes 40 Seconds East along said east right-Of-way and west Block line a distance of 36.12 feet; thence North 0 Degrees 39 Minutes 44 Seconds East along said east right-of-way and west Block line a distance of 551.40 feet to a point on a curve to the right said curve being on the north line of Block 4 and the south right-of-way line of Hanna Drive said curve having a radius of 200.00 feet and its center located South 44 Degrees 02 Minutes 46 Seconds East from said point; thence easterly along the arc of said curved south right-of-way line and north Block line a distance of 153.79 feet; thence South 89 Degrees 59 Minutes 17 Seconds East along said south right-of-way line and north Block line a distance of 292.43 feet to the Point of Beginning; thence South 89 Degrees 59 Minutes 17 Seconds East along said south right-of-way line and north Block line a distance of 455.00 feet to a point on the south line of Block 4; thence South 0 Degrees 02 Minutes 18 Seconds West along the west line of said Lot 1 of Block 4 a distance of 999.49 feet to a point on the south line of Block 4; thence South 89 Degrees 40 Minutes 48 Seconds West along said south line of Block 4 a distance of 455.00 feet, thence North 0 Degrees 02 Minutes 18 Seconds East a distance of 999.49 feet to the Point Of Beginning, Containing 10.44 acres, more or less.

EXHIBIT “B” TO DEVELOPER AGREEMENT

Preliminary Rendering and Site Plan for Project

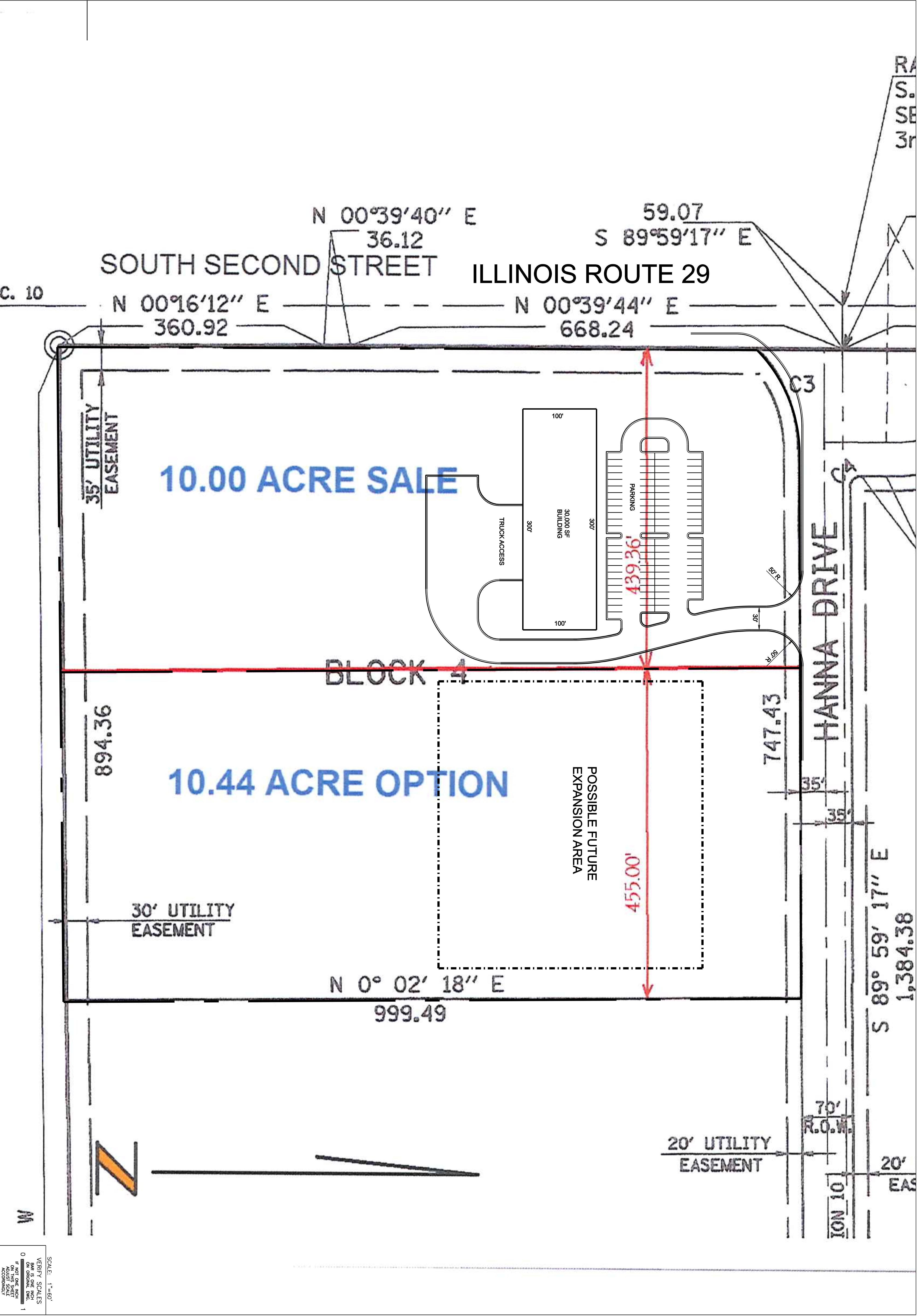


EXHIBIT “C” TO DEVELOPER AGREEMENT

Description of Enterprise Zone Benefits

EXHIBIT “D” OPTION AGREEMENT

**OPTION AGREEMENT FOR THE PURCHASE
AND SALE OF REAL PROPERTY**

THIS AGREEMENT made _____, 2009 by and between:

SELLER: The City of Pekin, Illinois
(hereinafter referred to as "Seller")

And

BUYER: WHEELWORX NORTH LLC
(hereinafter referred to as "Buyer")

In consideration of the mutual promises, covenants, terms and conditions set forth below and in the Agreement for Purchase and Sale by an between Buyer and Seller dated as of the date hereof (the "Purchase Agreement"), and intending to be legally bound, Seller and Buyer hereby agree as follows:

1. OPTION TO PURCHASE.

Seller does hereby give and grant to Buyer, its successors and assigns, the exclusive, continuing option and right to purchase (the "Option"), upon the terms and conditions set forth herein, that certain property described on Exhibit "A" attached hereto and incorporated herein by reference, containing approximately 10.44 acres of land (the "Option Property") and situated in Pekin, Illinois, together with all rights and interests of Seller in and to any improvements and appurtenances located thereon or pertaining thereto.

2. TERM.

The term of the Option shall commence as of the date of this Agreement and, subject to the provisions hereinafter contained, shall extend until 5:00pm Central Standard Time, on _____, 2010, being the first (1st) anniversary of the Closing, as such term is defined in the Purchase Agreement (the "Option Period").

3. EXERCISE OF OPTION.

In the event Buyer wishes to exercise the Option, Buyer shall given written notice thereof (the "Exercise Notice") to Seller prior to the expiration of the Option Period. In the event of the exercise of the option by Buyer, they shall proceed to develop the property as shown on site plan attached to the developer's agreement. Within three (3) business days following the

date on which Seller receives the Exercise Notice, Seller and Buyer shall enter into an agreement for the conveyance of the Option Property (the "Option Purchase Agreement") that is substantially identical to the Purchase Agreement, with the following exceptions:

- (i) Paragraphs 6(c)(iii) of the Purchase Agreement, if satisfied at the time of the exercise of the Option, shall be omitted from the Option Purchase Agreement;
- (ii) If the Option Property is purchased within one (1) year of the Closing Date (as such term is defined in the Purchase Agreement), then the Buyer agrees (a) to use the Option Property for a purpose related to the Intended Use (as such term is defined in the Purchase Agreement) of the property purchased under the Purchase Agreement and (b) if, within ten (10) years of the closing of the sale of the Option Property, Buyer desires to resell a portion of the Option Property prior to its development for such related use, Buyer will first offer to sell a portion of the Option Property to Seller for the Option Purchase Price (as hereinafter defined) but without any representations and warranties of any kind other than those set forth in a standard Statutory or Special Warranty Deed; and
- (iii) In the event the Option granted herein is exercised by Buyer, Seller agrees to promptly apply to the appropriate authority to have the Option Property rezoned to I-1 according to the zoning code and regulations in effect as of the date hereof for the City of Pekin, Illinois

4. PURCHASE PRICE.

The total purchase price to be paid by Buyer to Seller for the Option Property (the "Option Purchase Price") shall be Five Thousand and 00/100 Dollars (\$5,000) per whole acre as determined by a survey of the Option Property to be completed in accordance with the Option Purchase Agreement.

5. ASSIGNMENT.

Any assignment of this Agreement, except any assignment made in conjunction with the sale or assignment of the Project (as such term is defined in the Purchase Agreement) pursuant to Paragraph 4 of the Purchase Agreement, shall be subject to the approval of the non-assigning party, and such assignment shall not release the assignor from its obligations hereunder. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the successors, heirs, administrators, executors and assigns of the parties hereto.

6. ATTORNEY'S FEES.

If either party commences an action against the other to enforce any of the terms of this Agreement or because of the breach by either party of any of the terms hereof, the losing or

defaulting party shall pay to the prevailing party reasonable attorney's fees, costs and expenses incurred in connection with the prosecution or defense of such action.

7. NOTICES.

All communications, notices and demands of any kind which either party may be required to, or desire to, give to or serve upon the other party shall be made in writing and delivered by personal service to an officer of the other party or sent to by telegram or be registered or certified mail, postage prepaid, return receipt requested or by overnight courier service, to the following addresses:

To Seller: Dennis Kief, City Manager
City of Pekin
111 South Capitol Street
Pekin, Illinois 61554

To Buyer: WHEELWORX NORTH LLC
1480 Woodbine Avenue
Post Office Box 759
Calera, Alabama 35040
Attention: Mr. Gary Schoenfeldt

With a copy to:

Any such notice sent by mail shall be presumed to have been received by the addressee forty-eight (48) hours after posting in the United States mail. Either party may change its address by giving the other party written notice of its new address as herein provided.

8. INCORPORATION OF PRIOR AGREEMENT.

This Agreement and the Purchase Agreement contain all of the agreements of the parties hereto with respect to the subject matter thereof, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

9. REAL ESTATE COMMISSIONS.

Seller and Buyer represent to each other that no real estate commission or fee is to be paid in connection with the purchase and sale of the Option Property, and Seller and Buyer shall each indemnify the other against and hold the other harmless from an and all claims, liabilities, suits, damages, causes of action, judgments, verdicts, expenses or costs arising from any claim against either by any broker, agent, salesman or representative for any fees or commissions claimed by or through the party making the indemnity.

10. COUNTERPARTS.

This Agreement may be executed in two (2) or more counterparts and all such counterparts, taken together, shall be deemed to be one and the same instrument.

11. AUTHORITY OF SELLER.

Seller has the full right and authority to enter into this contract and to consummate the sale transaction contemplated herein; and the person executing this contract on behalf of Seller has all requisite authority and has been duly authorized to bind Seller.

12. AUTHORITY OF BUYER.

Buyer has the full right and authority to enter into this contract and to consummate the sale transaction contemplated herein; and the person executing this contract on behalf of Buyer has all requisite authority and has been duly authorized to bind Buyer.

IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement on the day and year first above written.

BUYER:

WHEELWORX

Date Executed:_____

By:_____

Its:_____

SELLER:

CITY OF PEKIN, ILLINOIS

Date Executed:_____

By:_____

Its:_____



REQUEST FOR COUNCIL ACTION

To: Council Members

CC: Dennis Kief, Sue McMillan, Angie Evans, & City Attorney

From: Joe Wuellner

AGENDA ITEM: Estates at Lakeview Items

AGENDA DATE REQUESTED: November 30, 2009

ACTION REQUESTED: Approve all items pertaining to the Estates at Lakeview.

BACKGROUND: We have been talking with the owners, Estates at Lakeview, Ltd., of the former Unland Property on Broadway between California Road and Veterans Drive about annexing to the City of Pekin. This annexation will add an additional 130 acres to the City area and 14 large residential lots and two commercial lots.

There were several issues discussed during these negotiations involving availability of city sanitary sewer, lot sizes and uses, access to adjoining streets, upgrading of adjoining streets, and zoning. All issues have been addressed to everyone's satisfaction and an agreement drawn up. The Planning Commission has reviewed the preliminary plat and zoning assignments requested and has forwarded its recommendation on to the Council. What you will be seeing and voting on at the meeting on November 30th are the recommendations from the Planning Commission regarding the site plan and zoning along with the ordinance adopting the annexation of this property.

This property will continue the growth of the city on the east side along the Veterans Drive corridor. I recommend you acceptance of all the items involving this subdivision.

FINANCIAL IMPACT: Minimal since services are already provided to this area of town by all services except garbage.

NEIGHBORHOOD CONCERNS: None were expressed at the Planning meeting.

IMPACT IF APPROVED: Increases the number of lots within the City and thus the tax base

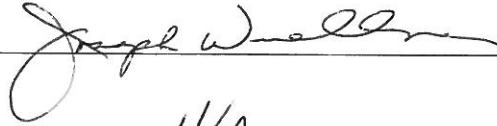
IMPACT IF DENIED: Property remains in the county and no additional taxes to the City.

ALTERNATIVES: None

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: Prosperous Community and High Quality of Life

REQUIRED SIGNATURES

Department Director



11/13/09

Date

Finance Department

N/A

(Certification of Availability of Funds)

Date

Corporation Counsel

(Certification of Review)

Date

City Manager

Date

Pekin Planning Commission Minutes
October 14, 2009

Present:	Absent:
Jim Bradshaw	Kyle Peebles
Steve Huey	Don Hild
Bill Craig, Chairman	Dick Cohenour
Scott Plotner, Vice Chairman	
Ron Knautz	
Jim Jones	

Chairman Bill Craig led the Pledge of Allegiance.

The regular meeting of the Pekin Planning Commission was called to order and a quorum was declared.

Staff Present: Ron Sieh, Joe Wuellner, Steve Brown and City Attorney Burt Dancey.

Chairman Bill Craig asked for approval of the Agenda.

MOTION by Jim Jones, Seconded by Jim Bradshaw to Approve the Agenda as presented. On roll call vote, All present voted AYE. MOTION APPROVED.

Chairman Bill Craig asked for the Approval of the July minutes.

MOTION by Jim Jones, Seconded by Ron Knautz to Approve the July minutes as corrected by removing the second paragraph from the bottom of Page 2. Noting: The statement was never made by Steve Huey. On roll call vote, All present voted AYE. MOTION APPROVED.

Chairman Bill Craig asked for the Approval of the September minutes.

MOTION by Ron Knautz, Seconded by Scott Plotner to Approve the September minutes as presented. On roll call vote, All present voted AYE. MOTION APPROVED.

City Council Action Report:

September 28, 2009 Council Meeting:

Received and Filed the September 9, 2009 minutes.

Approved the following Hearing: 09-1782 / To deny the Special Use Request for a Paint Ball Facility located off Parkway Drive with the Property ID #04-04-25-100-022

Denied the following Hearing: 09-1783 / To Approve the Site Plan for a Paint Ball Facility located off Parkway Drive with the Property ID #04-04-25-100-022

PPC Correspondence: No Correspondence

Application #1: Miller/Glassey Group - Brent Glassey

Hearing #1 (09-1784; 09-1785; 09-1786): Annexation & Classification, Zoning Assignment and Preliminary Plat for Estates at Lakeview Subdivision Located on the former Unland Property on East Broadway between California Road and Veterans Drive with a Legal Description of TRACT A being Part of the Northwest Quarter of Section 5, Township 24

North, Range 5 West, of the Third Principal Meridian, containing 131.908 Acres in Tazewell County, Illinois.

Open Public Hearing: 6:37pm

Attorney Gerald Hall was present for the Applicant. Stated the case by asking that Lots 1-14 are zoned R-1(Single Family Residential) and Lots 15 & 16 be zoned B-3(General Business District) on three sides of the property there will be gas, water and electric. No sewers will be required for the Residential Lots. He remained present for questions.

Jim Jones asked if the roads to the properties were private.

Attorney Gerald Hall stated yes and they would be paved Black Top.

Jim Jones stated that would mean they would not be maintained by the City and Garbage service would not be provided to the home. Only at the end of the drive.

Close Public Hearing: 6:40pm

Annexation & Classification Review Committee: Ron Knautz, Chairman

Ron Knautz stated there was no sub-committee held. Turned the item over to the commission.

Steve Huey asked Ron Sieh to quickly review B-3.

Ron Sieh stated B-3 is General Business District and is the least restrictive.

Steve Huey wanted to remind everyone that even though the topography indicates a separation between the B-3 lots and the R-1 lots, an issue has arisen in the past that there is no buffer between the Commercial and Residential. He foresees that this will come back to haunt the Commission if approved as is.

Bill Craig stated the plans for this land meet the Comprehensive plan for this area unlike last month with the Paint Ball Facility.

Ron Sieh stated that if the Commission was concerned with a Buffer, houses can be built in an OS-1(Office Service District) and they could change the zoning on the lots abutting the B-3 Lots.

Ron Knautz inquired where the closest Fire Hydrant was located.

Ron Sieh stated it is located on the East side of Veterans Drive.

Jim Jones questioned if a developers agreement has been completed.

Attorney Burt Dancey responded that the agreement was in the process.

Jim Jones inquired if the lots could be split. Does the zoning prohibit this from happening?

Ron Sieh stated approval has to come through the City before sub-dividing could take place. They have to meet certain requirements for approval.

Jim Jones stated that due to the size of the lots he found it interesting that horses/animals would be allowed here but not anywhere else in the City.

Ron Sieh stated yes, they are allowed in the City only for lots with ten or more acres. The ratio would be one horse per two acres.

Jim Jones recommended to the Chairman that this Subdivision would be a good addition to the City.

CHAIRMAN, Bill Craig called for a vote on the question to Approve the Annexation and Classification of the Estates at Lakeview Subdivision to the City Council. On roll call vote, All present voted AYE. Note: Steve Huey voted AYE with reluctance.

Rezoning Review Committee: Dick Cohenour, Chairman

Chairman, Bill Craig stated due to the absence of the Sub-Committee Chairman he turned it over to the Commission for discussion. Felt another public hearing is redundant.

Jim Bradshaw stated he still wasn't real comfortable with the B-3. Questioned why a B-3 is needed. Other comments from the tape were inaudible.

Attorney Gerald Hall stated that portion of the property plateaus. Other comments from the tape were inaudible.

Jim Bradshaw addressed the staff on the land use in that area and the entire corridor.

Ron Sieh stated all the corners are B-3.

Bill Craig stated that the homes will be hidden from the B-3 sites.

Ron Sieh stated that viewing the topography behind Lot 15 adjacent to Lot 14 there is a deep ravine with a creek and wooded area.

Steve Huey stated he will reluctantly vote yes for this project but, asked that it be noted that some of the members were not in agreement with the zoning layout. Especially since there is no buffer.

CHAIRMAN, Bill Craig called for a vote on the Question to Approve the Rezoning of Lots 1-14 to R-1(Single Family Residential) and Lots 15 & 16 to B-3(General Business District) for the Estates at Lakeview Subdivision. On roll call vote, All present voted AYE.

Subdivision Plat Review Committee: Steve Huey, Chairman

Steve Huey turned it over to the Commission due to no sub-committee meeting.

Jim Bradshaw was concerned with the number of curb cuts on Broadway.

Joe Wuellner explained that the access roads have been limited to three on Broadway to keep traffic down.

CHAIRMAN, Bill Craig called for a vote on the Question to Approve the Preliminary Plat for the Estates at Lakeview Subdivision. On roll call vote, All present voted AYE.

Bill Craig stated to the applicant that the Commission is a recommending body and approval of the request will take place at the City Council meeting on October 28, 2009 at 5:30pm.

Informal: Attorney Burt Dancey - Review of Special Use/continuing Education for the Commission Members.

Attorney Burt Dancey presented an overview of different types of Special Uses. Their approval and/or denials and current updates of laws pertaining to Special Use Items.

MOTION by Jim Jones, seconded by Steve Huey to adjourn the meeting. On roll call vote, all present voted AYE. MOTION PASSED.

Meeting adjourned at 7:45pm.

Juanita K VanBuskirk, Secretary
Pekin Planning Commission

Pekin Planning Commission
October 14, 2009

HEARING #09-1784

The Pekin Planning Commission recommends the Approval of Annexation and Classification of the Estates at Lakeview Subdivision located on the former Unland Property on East Broadway Between California Road and Veterans Drive with a Legal Description of TRACT A being Part of the Northwest Quarter of Section 5, Township 24 North Range 5 West, of the Third Principal Meridian, containing 131.908 Acres in Tazewell County, Illinois.

Bill Craig, Chairman

Scott Plotner, Vice-Chairman

Pekin Planning Commission
October 14, 2009

HEARING #09-1785

The Pekin Planning Commission recommends the Approval of Re-Zoning Assignment of Lots 1-14 to R-1 (Single Family Residential) and Lots 15 & 16 to B-3 (General Business District) for the Estates at Lakeview Subdivision located on the former Unland Property on East Broadway between California Road and Veterans Drive with a Legal Description of TRACT A being Part of the Northwest Quarter of Section 5, Township 24 North Range 5 West, of the Third Principal Meridian, containing 131.908 Acres in Tazewell County, Illinois.

Bill Craig, Chairman

Scott Plotner, Vice-Chairman

Pekin Planning Commission
October 14, 2009

HEARING #09-1786

The Pekin Planning Commission recommends the Approval of the Preliminary Plat for Estates at Lakeview Subdivision located on the former Unland Property on East Broadway between California Road and Veterans Drive with a Legal Description of TRACT A being Part of the Northwest Quarter of Section 5, Township 24 North Range 5 West, of the Third Principal Meridian, containing 131.908 Acres in Tazewell County, Illinois.

Bill Craig, Chairman

Scott Plotner, Vice-Chairman

PRELIMINARY PLAT CHECKLIST

Subdivision (Project) Name Estates at Lakeview Subdivision

Developer/Owner Miller/ Glassey Group

Developer Address 317 Court Street

Developer Phone # 346-8877

Developer Contact Person Brent Glassey

Engineer/Architect Christopher B. Burke Engineering, LTD

[Handwritten signatures and dates: 10/11/09]

Required Information - Approval Dates		Public Works Director	City Engineer	Code Enforcement	Fire Chief
A. IDENTIFICATION AND DESCRIPTION 10-4-4					
1.	Legal Description A			OK	
2.	Subdivider (Proprietor Status) & Engineer			OK	
3.	1"=100' Minimum Acceptable Scale			OK	
4.	Date and North Arrow			OK	
B. Existing Conditions 402.4 10-4-4-D					
1.	Location Map (not less than 1"=1,000')			OK	
2.	Boundary Survey, Dimension, Section and Corporation Lines			Not all shown	
3.	Property Lines of Adjacent Tracts & Zoning Classification			Not shown	
4.	Existing Platted Street (location, width and names)			No Streets all private drives that must be hard surfaced completely	
5.	Location of Existing Underground Utilities (i.e. sewers and water mains)			No sewers/ water mains are not shown	
6.	Creeks or Surface Drains with 500' and Statement on Drainage Areas			NEED	
7.	Contour Interval of not more than 2'			OK	
8.	Wetlands			YES	
9.	Floodplain			NO	
10.	Mines			NO	
C. General Planning Considerations 10-4-2 A thru E					

				AG on all lots with exception to Acres due to the annexation agreement/ B-3 for lot 15	
1.	Zoning Classification Request				
2.	Schools, Open Space			NONE	
3.	Relationship to Major Thoroughfares			OK/ limited access	
4.	Master Plan or Other Plan Conformity			Low Density Residential	
5.	Preservation of Natural Features			YES	
D. Proposed Conditions 10-4-4-E					
1.	Street Names, ROW and Connections			No streets/ must provide deceleration lane for Broadway accesses	
2.	Lot Layout, Dimension, Number and Setbacks			See section 10-5-4-A-3 Setbacks must meet schedule of regulations	
3.	Lots for Public or Common Use			Shown lot 16	
4.	"Excepted" Parcels on Plat			NONE	
5.	Sewage Disposal System Indication			PRIVATE	
6.	Water Supply System Indication			No mains or hydrants shown	
7.	Storm Drainage and Retention Indication			Not needed due to area involved and lay of land	
8.	General Layout of Overall Plan				
9.	Certificates			NONE SHOWN	

Code Enforcement Comments:

Public Works Comments:

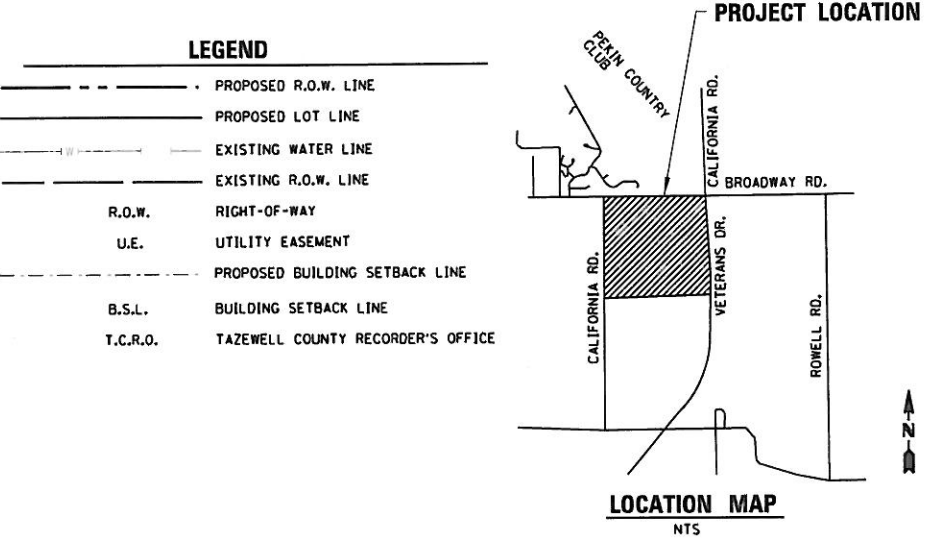
City Engineer Comments:

Fire Chief Comments:

No hydrants on same side of streets as subdivisions. Would be
sensible to have hydrants located on or near subdivision land i.e.
California Road & Broadway or Veterans.

Other Comments:

PRELIMINARY PLAT FOR
ESTATES AT LAKEVIEW SUBDIVISION



GENERAL NOTES

- OWNER & DEVELOPER
THE ESTATES AT LAKEVIEW, LTD.
P.O. BOX 1138
PEKIN, ILLINOIS 61555
(309) 642-4077
- ENGINEER
DEBRA A. ROE, P.E.
CHRISTOPHER B. BURKE ENGINEERING, LTD.
202 NE MADISON AVENUE, SUITE 301
PEORIA, ILLINOIS 61602
(309) 676-9000
- SURVEYOR
DANIEL J. EVANS, P.L.S.
CHRISTOPHER B. BURKE ENGINEERING, LTD.
202 NE MADISON AVENUE, SUITE 301
PEORIA, ILLINOIS 61602
(309) 676-9000
- PROPERTY IS CURRENTLY ZONED RR WEST OF CREEK AND IS ZONED C-2, EAST OF THE CREEK, LOCATED IN ELM GROVE TOWNSHIP
- 12' UTILITY EASEMENTS SHALL BE PROVIDED ON FRONT LOT LINES. A 6' UTILITY EASEMENT SHALL BE PROVIDED ON SIDE AND REAR LOT LINES.
- BUILDING SETBACK LINE SHALL BE 25'.
- DRAINAGE, STORM AND SANITARY EASEMENTS SHALL BE PROVIDED WITH SUFFICIENT WIDTH FOR MAINTENANCE AND STORM WATER CONVEYANCE.
- RESIDENTIAL LOTS TO HAVE SEPTIC SYSTEMS IN ACCORDANCE WITH TAZEWELL COUNTY HEALTH DEPARTMENT REQUIREMENTS. COMMERCIAL LOTS TO CONNECT TO CITY OF PEKIN SANITARY SEWER.
- CONTOURS ARE BASED ON CITY OF PEKIN AERIAL TOPO DRWGS.
- THE PROPERTY SHOWN HEREON IS LOCATED IN ZONE C, PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 170815-0150B, EFFECTIVE DATE: AUGUST 1, 1980. ZONE C DENOTES AREAS OF MINIMAL FLOODING.

 CHRISTOPHER B. BURKE ENGINEERING LTD. 202 NE Madison Avenue, Suite 301 Peoria, Illinois 61602 (309) 676-9000 Design Firm Registration # 184-001175	CLIENT: MILLER/GLASSEY GROUP	NO. DATE NATURE OF REVISION CHKD.				TITLE: ESTATES AT LAKEVIEW PRELIMINARY PLAT	PROJECT NO. 07-352 SHEET OF DRAWING NO.
		FILE NAME P:\07352\Civil\9-24-09.PPL					
		DSGN. DAR DWN. LTW CHKD. SCALE: 300' DATE: 9/25/2009 PLOT DATE:					

ORDINANCE NO.

AN ORDINANCE APPROVING ANNEXATION AGREEMENT

WHEREAS, the City of Pekin is a home rule unit of government under Section 6 of Article VII of the 1970 Constitution of the State of Illinois.

WHEREAS, Estates at Lakeview, Ltd, is the owner of the following described real estate, and that there are no electors residing therein; and

See Exhibit "A" Attached Hereto and Incorporated Herein by Reference Thereto. (Hereinafter the "TERRITORY").

AND WHEREAS, said TERRITORY is contiguous with the boundary of the City of Pekin, Illinois; and

WHEREAS, said TERRITORY is not within any other municipality and no petition is pending pertaining to any annexation of said land, other than as herein set forth; and

WHEREAS, the City of Pekin and the owners of record of all of the land within the territory herein described have negotiated a certain Annexation Agreement, a copy of which is attached hereto and incorporated herein by this reference as Exhibit "B"; and

WHEREAS, on October 14, 2009, the Pekin Planning Commission informally reviewed the proposed annexation and zoning of the TERRITORY and has submitted its recommendations; and

WHEREAS, on November 30, 2009, pursuant to notice in the manner required by law, the Mayor and the City Council of the City of Pekin conducted a public hearing for the purpose of considering the Annexation Agreement and the annexation zoning of the TERRITORY; and

WHEREAS, it is deemed in the best interests of the City of Pekin, Illinois, that the City of Pekin approves the Annexation Agreement.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, AS FOLLOWS:**

SECTION I: That the Annexation Agreement regarding the TERRITORY as described in Exhibit "A" attached hereto is hereby approved.

SECTION II: That the Mayor and the City Clerk are hereby authorized and directed to execute, deliver and perform the Annexation Agreement (and the documents incorporated therein) substantially in the form of such Annexation Agreement as presented at this meeting or with such changes therein as may be approved by the officers executing the same. The Mayor and City Clerk are further authorized to execute such other documents as may be necessary and proper to consummate said Annexation Agreement,

SECTION III: That the Notices and Affidavit of Mailing of Notice marked Exhibit "C" be made an express part of this ordinance.

SECTION IV: That this ordinance shall be in full force and effect upon its passage, approval and publication as may be required by law.

PASSED AND APPROVED at a regular meeting of the Mayor and City Council of the City of Pekin, this _____ day of _____, 2009; and upon roll call the vote was as follows:

AYES:

NAYS:

ABSENT:

ABSTAINING:

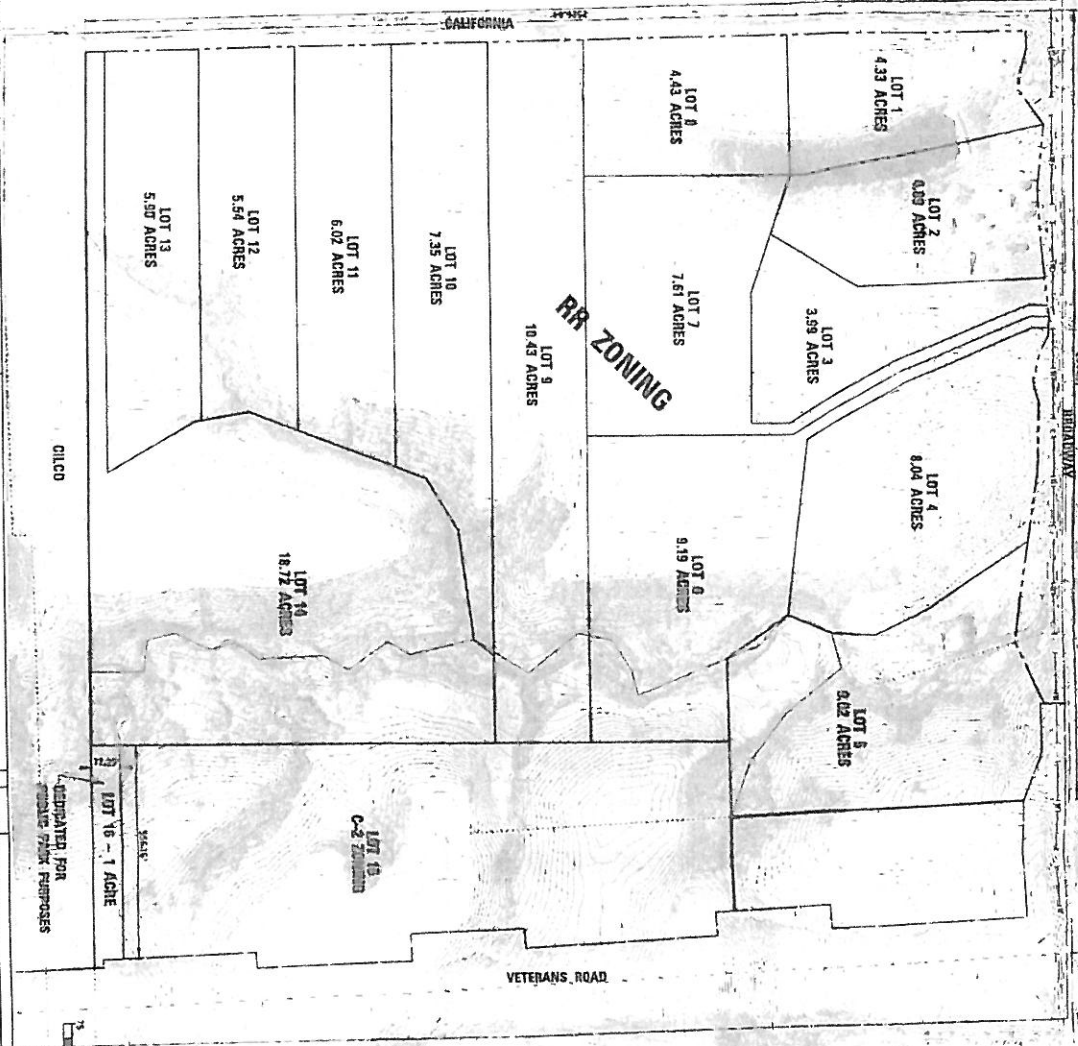
APPROVED this _____ day of _____, 2009.

MAYOR

ATTEST:

CITY CLERK

PRELIMINARY PLAT FOR
ESTATES AT LAKEVIEW SUBDIVISION



CB
CHRISTOPHER D. BURKE
ENGINEERING LTD.
10000 15th Street
San Diego, CA 92131
(619) 571-0000
Design Firm Registration # 181-001173

MILLERGLASSY GROUP

NO.	DATE	DESCRIPTION	BY	CHKD.
1	10/23/2009	PRELIMINARY PLAT	CD	CD
2	11/10/2009	REVISION	CD	CD
3	11/10/2009	REVISION	CD	CD
4	11/10/2009	REVISION	CD	CD
5	11/10/2009	REVISION	CD	CD
6	11/10/2009	REVISION	CD	CD
7	11/10/2009	REVISION	CD	CD
8	11/10/2009	REVISION	CD	CD
9	11/10/2009	REVISION	CD	CD
10	11/10/2009	REVISION	CD	CD
11	11/10/2009	REVISION	CD	CD
12	11/10/2009	REVISION	CD	CD
13	11/10/2009	REVISION	CD	CD
14	11/10/2009	REVISION	CD	CD
15	11/10/2009	REVISION	CD	CD
16	11/10/2009	REVISION	CD	CD
17	11/10/2009	REVISION	CD	CD
18	11/10/2009	REVISION	CD	CD
19	11/10/2009	REVISION	CD	CD
20	11/10/2009	REVISION	CD	CD

ESTATES AT LAKEVIEW
PRELIMINARY PLAT

PROJECT NO.
SHEET 22 OF 27
DRAWING NO.

- GENERAL NOTES**
1. OWNER'S DEVELOPMENT SHALL BE SHOWN ON PLAT LIST AND BE SUBJECT TO ALL CITY ORDINANCES.
 2. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 3. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 4. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 5. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 6. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 7. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 8. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 9. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 10. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 11. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 12. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 13. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 14. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 15. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 16. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 17. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 18. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 19. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.
 20. THE CITY OF SAN DIEGO HAS REVIEWED THIS PLAT AND HAS ISSUED A PLAT MAP.

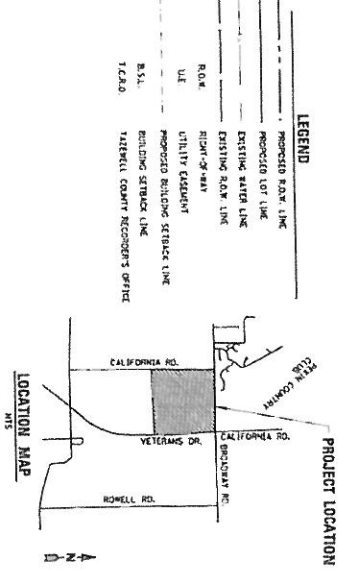


EXHIBIT A2

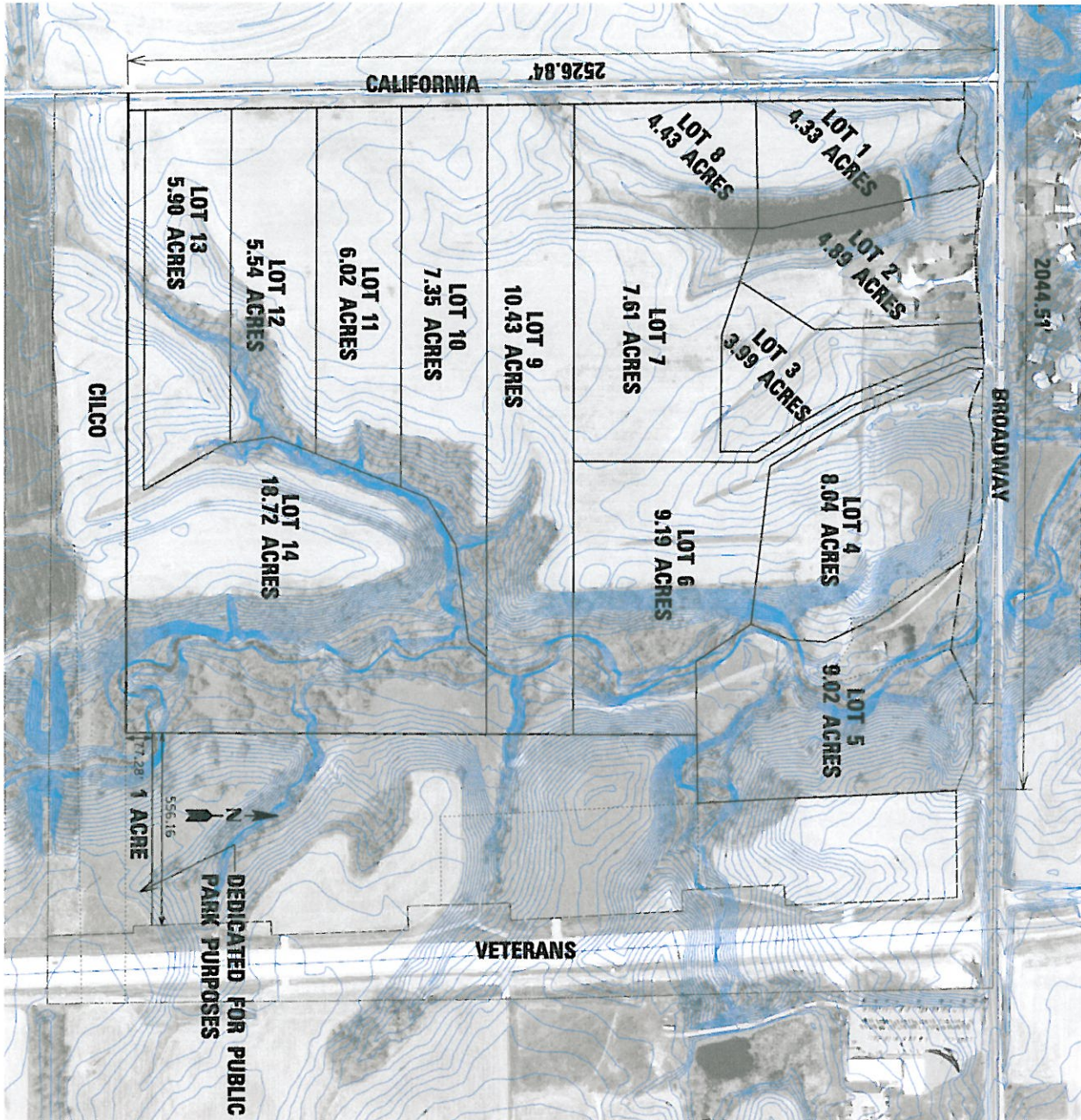


EXHIBIT B

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1. DEFINITIONS As used in this Agreement, the following words shall have the meanings ascribed to them under DEFINITIONS.

- a. "PROPERTY" means the real estate to be annexed by this Agreement described on the attached Exhibit "A".
- b. "CITY" means the City of Pekin, Illinois, an Illinois Municipal Corporation.
- c. "Lakeview" means The Estates at Lakeview, Ltd.
- d. "Agreement" means this Annexation Agreement.

2. PETITION FOR ANNEXATION

Lakeview shall, within ninety (90) days from the date of this Agreement, execute a petition for annexation of the PROPERTY to the CITY in substantially the form set forth in Exhibit "C" attached hereto and incorporated herein by reference. Lakeview agrees to provide to the CITY an annexation plat, in satisfactory form for recording, which encompasses all of the PROPERTY as hereinafter defined. All costs and expenses incurred for platting and survey work, including any recording fees related thereto, shall be borne by Lakeview. Immediately upon execution of the petition, Lakeview shall file the petition with the Pekin City Clerk and shall cooperate with CITY to bring about annexation in accordance with the procedures set forth in 65 ILCS 5/7/1-8. There will be no annexation fee charges to Lakeview.

3. CITY TO ANNEX THE PROPERTY

The City agrees that upon receipt of a proper petition for annexation, the City Council will enact an ordinance annexing the PROPERTY to the CITY.

4. CITY TO ZONE PROPERTY

Upon annexation of the PROPERTY to the CITY, the City Council shall enact an ordinance classifying the zoning of the PROPERTY to be as follows:

<u>Lots</u>	<u>Zoning</u>
1 thru 14	R-1
15	B-3

- A. One horse per acre may be kept in the R-1 lots. Another allowed exception is for personal dog kennels and/or breeding facility as controlled by subdivision covenants. This does not include rental boarding facilities for either horses or dogs.
- B. One outbuilding may be constructed up to 100% of the square footage of the residential dwelling on the same lot, as long as it meets other applicable R-1 zoning requirements pertaining to setback and height restrictions.
- C. All lanes/driveways shall be paved (hard surface – either hot mix asphalt, a minimum A-2 bituminous surface course [seal coat], or concrete) but specifically on those lots designated as “flag lots” (currently Lots 6, 7, & 14 but not limited to these as future configurations may add or delete more lots) written requirements for the paving of the lanes leading from the streets to the home sites must be documented in all sales agreements. However, all driveway approaches from the public roads within the public right of way must be either concrete or hot mix asphalt.

5. USE OF PROPERTY

The CITY and Lakeview agree that the above described zoning classifications of the PROPERTY shall run with the land, except where modified by this agreement. Lakeview, or his successor in interest to the PROPERTY, or any part thereof, shall be allowed to use the PROPERTY for the principal uses authorized under the Pekin Municipal Code as of the date of this Agreement.

6. SANITARY SEWER SYSTEM

When sanitary sewer is available to the northwest corner of Broadway and Veterans Drive, Lakeview shall be responsible for extending the sanitary sewer line south from the north side of Broadway Road. Upon payment to the CITY of the applicable tap-on fee, Lakeview shall be granted access to said main sanitary sewer line, provided that any and all costs and expenses related to such a connection shall be paid by Lakeview. The CITY shall have no obligation to construct or install a main sanitary sewer line to service the PROPERTY. Should the sanitary sewer not be extended to the properties zoned B-3 by the time the building permits are issued, the City does not object to the lots connecting to on-site disposal systems until the sanitary sewer system is available. Once the sanitary sewer system is available, the B-3 zoned lots shall connect within 180 days. The R-1 lots are not required to connect to the sanitary sewer system as long as the sewer system is distance and topographically prohibitive (see State Plumbing Code and Tazewell County Health Department requirements).” Should a sewer system be constructed that meets all the requirements of the State Plumbing Code and Tazewell County Health Department any lot within the distance limit that has not been previously sold shall connect to the system.

It is acknowledged by the CITY that a material inducement to LAKEVIEW to annex the property to the City is the availability of sanitary sewer facilities owned by the City. The City

agrees to reimburse LAKEVIEW 2/3 of the cost of extending the sanitary sewer from the north Right-Of-Way at the northwest corner of Broadway and Veterans Drive to the south Right-Of-Way to the southwest corner of Broadway and Veterans Drive including manholes on both ends and engineering costs. The intention is that the property owner of the parcel in the southwest corner of Veteran's at Broadway would reimburse the City 1/3 of said cost.

Similarly, it is acknowledged by the CITY that a material inducement to LAKEVIEW to annex the property to the City is the availability of sanitary sewer facilities owned by the City. The City agrees to reimburse LAKEVIEW 1/2 of the cost of extending the sanitary sewer from the south Right-Of-Way of Broadway south to the northern property line of Lakeview (approximately 750') as shown on the attached plat including manholes on both ends and engineering costs.

7. VETERANS DRIVE AND BROADWAY ROAD ACCESS POINTS

CITY shall grant to Lakeview three (one of those is shared with property owner to the north) access points, from the west side of Veterans Drive. CITY shall grant to Lakeview three access points from the south side of Broadway Road. CITY shall grant to Lakeview four access points, from the east side of California Road with the fourth point being done in conjunction with existing utility access point. The locations of these access points are shown on the accompanying plat and any changes must be approved by the City prior to construction.

8. CALIFORNIA ROAD DEDICATIONS AND IMPROVEMENTS COST SHARING

Lakeview shall dedicate to the City for the purpose of Right-Of-Way 40 feet of property east of the Centerline of California Road. When Lots 1, 8, 9, 10, 11, 12 and 13 are sold by the Developer, the easements for California Road shall be shown and the City shall be paid \$6,000/Lot. At the end of 10 years whatever amount has not been paid from the original \$42,000,

the Developer is responsible for paying that amount to the City. After the ten years of this agreement, property shall be treated on an equal basis with respect to assessments and other matter, as to other property similarly situated in the area.

9. UTILITY EASEMENTS

In addition to the 12' Front Lot Utility Easements shown on the Preliminary Plat, the Final Plat shall show 12' Utility Easements on all Side and Back Lot Lines

10. CITY PARCEL

The Developer shall dedicate to the City a 1 acre parcel with frontage on a public street for the City's use. The City's usage of this parcel shall be consistent with the zoning restrictions for the remainder of the subdivision. If usage of the parcel is for park purposes, animals (specifically dogs) shall be prohibited.

11. PHASED CONSTRUCTION

If the Developer intends to construct in phases, each phase will be reviewed by staff after review and approval of the Pekin Planning Commission. Thereafter, before the remainder of the subdivision phases is constructed, drawings shall be submitted for review and approval by Staff unless significant changes have been made to the original layout. Furthermore, the Developer agrees to dedicate the applicable Right-Of-Way and construct the applicable infrastructure within the limits shown for each phase.

12. CONTROLLING PROVISIONS

The provisions of this Agreement shall control over the provisions of any ordinances, code or regulations of the CITY which are in conflict with the provisions of this Agreement. The subdivision has been designed to meet or exceed setback standards in the City's zoning ordinance. In the interim between execution of this Agreement and completion of the

subdivision, any changes in the CITY setback or yard requirements shall not be applicable to the development as approved herein.

13. AMENDMENTS

This Agreement, and the Exhibits attached hereto, may be amended only by the mutual consent of the parties, by adoption of an ordinance by the CITY approving said amendment as provided by law and by the execution of said amendment by the parties or their successors in interest.

14. DURATION OF AGREEMENT

This Agreement shall be binding upon the parties and their respective successors and assigns for twenty (20) years, commencing as of the date hereof, and for such further term as may be hereinafter authorized by statute and by CITY ordinance. The expiration of the term of this Agreement shall not affect the continuing validity of the zoning of the PROPERTY or any ordinance enacted by the CITY pursuant to this Agreement.

15. RECORDING OF AGREEMENT

An executed copy of this Agreement or a memorandum thereof shall be filed among the land records in the Office of the Tazewell County Recorder of Deeds immediately upon the execution of this Agreement.

16. ENFORCEABILITY

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

17. NOTICES

Unless and until such time as subsequent notice is received in writing as required herein,

the addresses of the CITY and Estates at Lakeview for all purposes under this Agreement are as follows:

to CITY at:

City of Pekin
111 S. Capitol Street
Pekin, IL 61554
Attn: City Clerk

to Estates at Lakeview, LTD. at:

Warren Brent Glassey
317 Court Street
Pekin, IL 61554

18. SEVERABILITY AND AUTHORITY TO EXECUTE AGREEMENTS

If any provision of this Agreement or any section, sentence, clause or word or the application thereof in any circumstance is held invalid by a court of competent jurisdiction, the validity of the remainder of this Agreement and the application of such provision, section, sentence, clause or word in any other circumstance shall not be affected unless Lakeview shall have had contractual benefits materially impaired thereby, in which event, that party shall have the right to elect otherwise in writing made and delivered promptly following receipt of notice of the subject invalidity.

This Agreement is entered into between the CITY and Lakeview, pursuant to the provisions of the Illinois Municipal Code regarding annexation agreements and the authority of the CITY to enter into agreements pursuant to those home rule powers pursuant to Article VII, Section 10 of the 1970 Illinois Constitution.

19. APPLICABLE TO ENTIRE PROPERTY

The rights, obligations and duties of the parties as herein set forth shall be applicable to each and every portion of the PROPERTY.

20. COUNTERPARTS AND SUCCESSORS

This Agreement may be executed in any number of counterparts, each of which shall nevertheless constitute but one Agreement. This Agreement shall be binding upon the heirs, devisees, legatees, personal representatives, successors or assigns of the parties hereto.

21. TIME

Time shall be of the essence of this Agreement and of each and every provision hereof.

22. APPROVALS

Wherever any approval or consent of the CITY or of any of its departments, officials or employees is called for under this Agreement, the same shall not be unreasonably withheld or delayed.

23. ORDINANCES

The City agrees to enact all ordinances and resolutions that are necessary to effectuate the terms of this Agreement.

24. BINDING EFFECT

This Agreement shall be binding upon the parties hereto and their respective heirs, executors, personal representatives, corporate authorities, administrators, successors and assigns.

25. WAIVER

None of the parties shall be excused from complying with any of the terms and conditions of this Agreement by any failure of the other party upon one or more occasion to insist upon or seek compliance with any such terms or conditions.

25. CONTINUITY OF OBLIGATIONS; EXCULPATION OF OWNER

Notwithstanding any provision of this Agreement to the contrary, Lakeview or his successors and assigns shall at all times during the term of this Agreement remain liable to the City for the faithful performance of all obligations imposed upon Lakeview or his successors and

assigns by this Agreement until such obligations have been fully performed or until City, at its sole option, has otherwise released Lakeview or his successors and assigns from any or all of such obligations.

26. REMEDIES

Upon a breach of this Agreement, any party, in any court of competent jurisdiction, may seek any and all remedies available under Illinois law. Notwithstanding the foregoing, before the failure of any party 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, the party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the satisfaction of the complaining party within thirty (30) days of receipt of such notice.

27. FORCE MAJEURE

If performance of any covenant to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party, which circumstances may include acts of God, war, acts of civil disobedience, strikes or similar acts, the time for such performance shall be extended by the amount of time of such delay.

28. GOVERNING LAW

This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Illinois. Any litigation concerning this Annexation Agreement shall be commenced in Tazewell County, Illinois.

29. ADDITIONAL DOCUMENTS

The parties shall execute and deliver such additional documentation as may be necessary to implement this Annexation Agreement.

IN WITNESS WHEREOF, authorized representatives of the parties have hereunto set their hands and seals and have caused this Agreement to be executed all on the day and year first above written.

CITY OF PEKIN, ILLINOIS

By
RUSTY DUNN, Mayor

ATTEST:

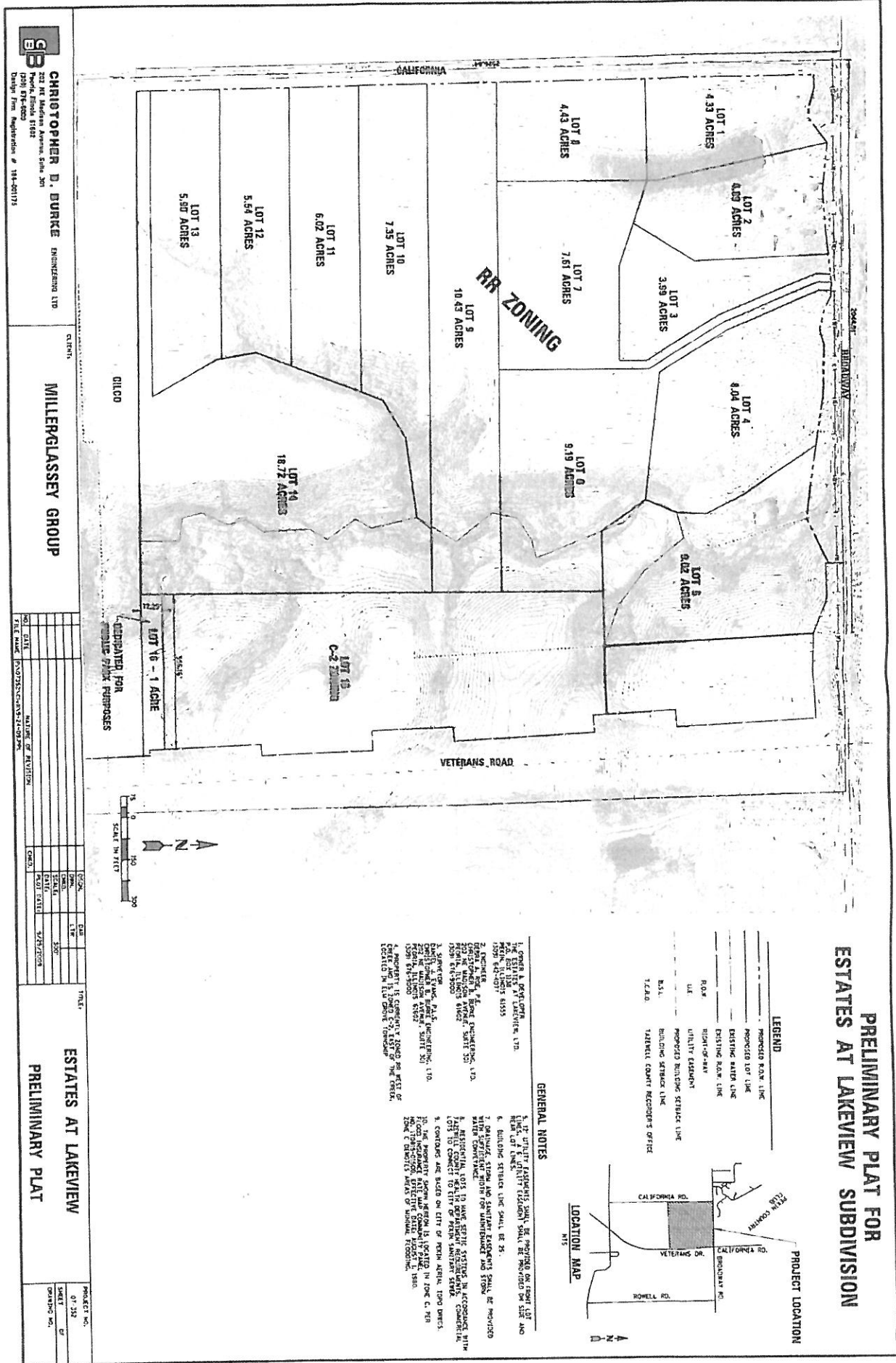
By
SUE MCMILLAN, City Clerk

OWNER:

By _____
.

EXHIBIT “A”

Plat



CHRISTOPHER D. BURKE ENGINEERING LTD.
 2025 N. Madison Avenue, Suite 201
 Portland, Oregon 97201
 Phone: 503-255-1100
 Fax: 503-255-1101
 Design Firm Registration # 184-001173

MILLERGLASSEY GROUP

NO.	DATE	DESCRIPTION	BY	CHKD.
1	10/1/00	PRELIMINARY PLAT	CB	CB
2	10/1/00	REVISION	CB	CB
3	10/1/00	REVISION	CB	CB
4	10/1/00	REVISION	CB	CB
5	10/1/00	REVISION	CB	CB
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99	10/1/00	REVISION	CB	CB
100	10/1/00	REVISION	CB	CB

ESTATES AT LAKEVIEW
PRELIMINARY PLAT

PROJECT NO. 07-202
 SHEET 07 OF 07
 DRAWING NO. 07-202

EXHIBIT "B"

Legal Descriptions

TRACT A

Part of the Northwest Quarter of Section 5, Township 24 North, Range 5 West, of the Third Principal Meridian, Tazewell County, Illinois, containing 131.908 Acres.

PART OF TRACT "E" AND TRACT "D" IN PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP-24-NORTH, RANGE-4-WEST OF THE THIRD PRINCIPAL MERIDIAN, TAZEWELL COUNTY, ILLINOIS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 5; THENCE NORTH $89^{\circ}32'36''$ WEST (BEARINGS ARE FOR DESCRIPTIVE PURPOSES ONLY) ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER OF SECTION 5, A DISTANCE OF 191.16 FEET, TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF VETERANS DRIVE; THENCE NORTH $01^{\circ}56'21''$ WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE OF VETERANS DRIVE A DISTANCE OF 224.17 FEET TO A POINT ON THE NORTH LINE OF A TRACT CONVEYED TO CENTRAL ILLINOIS LIGHT COMPANY AS RECORDED IN BOOK 1090, PAGE 41 AT THE TAZEWELL COUNTY RECORDER'S OFFICE, SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL TO BE DESCRIBED:

FROM THE POINT OF BEGINNING, THENCE NORTH $89^{\circ}49'30''$ WEST, ALONG SAID NORTH LINE, A DISTANCE OF 2425.26 FEET TO THE WEST LINE OF SAID NORTHWEST QUARTER OF SECTION 5; THENCE NORTH $00^{\circ}54'37''$ WEST ALONG SAID WEST LINE, A DISTANCE OF 2526.84 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 5; THENCE SOUTH $89^{\circ}46'26''$ EAST, A DISTANCE OF 1797.36 FEET; THENCE SOUTH $00^{\circ}20'32''$ EAST, A DISTANCE OF 62.51 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF BROADWAY ROAD; THENCE NORTH $89^{\circ}25'42''$ EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 124.73; THENCE SOUTH $68^{\circ}39'23''$ EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 135.45 FEET TO THE NORTHWEST CORNER OF TRACT "D-NORTH"; THENCE SOUTH $03^{\circ}03'35''$ EAST ALONG THE WEST LINE OF SAID TRACT "D-NORTH", A DISTANCE OF 753.46 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "D-NORTH"; THENCE NORTH $89^{\circ}27'05''$ EAST, A DISTANCE OF 249.42 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF BROADWAY ROAD (THE FOLLOWING 11 COURSES ARE ALONG SAID WESTERLY RIGHT OF WAY LINE OF BROADWAY ROAD); THENCE SOUTH $03^{\circ}03'47''$ EAST, A DISTANCE OF 49.21 FEET; THENCE NORTH $86^{\circ}56'13''$, A DISTANCE OF 60.00 FEET; THENCE SOUTH $03^{\circ}03'47''$ EAST, A DISTANCE OF 500.00 FEET; THENCE SOUTH $86^{\circ}56'13''$ WEST, A DISTANCE OF 50.00 FEET; THENCE SOUTH $01^{\circ}55'37''$ EAST, A DISTANCE OF 297.05 FEET; THENCE NORTH $88^{\circ}03'39''$ EAST, A DISTANCE OF 70.00 FEET; THENCE SOUTH $01^{\circ}56'21''$ EAST, A DISTANCE OF 400.00 FEET; THENCE SOUTH $88^{\circ}03'39''$ WEST, A DISTANCE OF 40.00 FEET; THENCE SOUTH $01^{\circ}56'21''$ EAST, A DISTANCE OF 400.00 FEET; THENCE NORTH $8^{\circ}03'39''$ EAST, A DISTANCE OF 20.00 FEET; THENCE SOUTH $01^{\circ}56'21''$ EAST, A DISTANCE OF 23.67 FEET TO THE POINT OF BEGINNING.

EXHIBIT C

PETITION FOR ANNEXATION

I/We, petition and request the City of Pekin, Illinois, to annex the following described territory to said City, to-wit:

Commonly Known as: Estates at Lakeview

PIN: 11-05-100-005

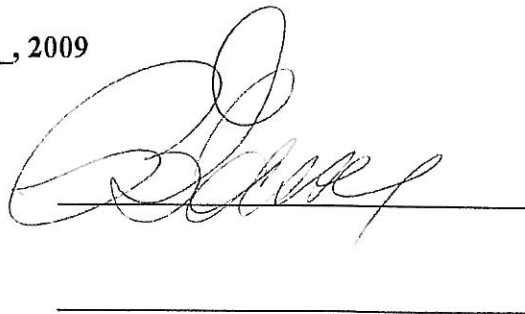
11-05-100-008

11-05-100-010

(Hereinafter the "Territory") In support of this petition, the undersigned certifies as follows:

1. The Petitioners are the sole owner of record of the Territory described.
2. The Petitioners are the only electors residing with in the Territory
3. The Territory is not situated within the limits of any incorporated municipality.
4. The Territory is contiguous to the City of Pekin, Illinois.
5. Petitioners request that the corporate authorities of the City of Pekin consider the question of the annexation of the Territory, adopt an ordinance annexing the Territory to said City and record a copy of the Ordinance together with an accurate map of the Territory with the Recorder of Deeds and the County Clerk of Tazewell County, Illinois.

DATED: 11/12/, 2009



PART OF TRACT "E" AND TRACT "D" IN PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP-24-NORTH, RANGE-4-WEST OF THE THIRD PRINCIPAL MERIDIAN, TAZEWELL COUNTY, ILLINOIS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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200900026655
Filed for Record in
TAZEWELL COUNTY, IL
ROBERT LUTZ
11-17-2009 At 08:17 am.
AFFIDAVIT 25.75

City of Pekin

AFFIDAVIT OF SERVICE

STATE OF ILLINOIS)

COUNTY OF TAZEWELL)

Sue McMillan, City Clerk, being first duly sworn, on oath deposes and says that she did cause the attached Notice to be served upon the following:

Robert Blackwell, Director
Pekin Park District
1715 Dragon Drive
Pekin, IL 61554

Jeff Brooks
Pekin Public Library
301 S. 4th Street
Pekin, IL 61554

Glen Koch, Supervisor
Elm Grove Township
11703 Springfield Rd.
Tremont, IL 61568

John Moser, Clerk
Elm Grove Township
PO Box 382
Tremont, IL 61568

Terry Lohnes, Highway Commissioner
Elm Grove Township
13383 Egg Ranch Road
Pekin, IL 61554

Dick Carroll, Assessor
Elm Grove Township
2207 Sunset Drive
Pekin, IL 61554

Alan Bliss, Trustee
Elm Grove Township
14157 Watson Rd
Pekin, IL 61554

James Miller, Trustee
Elm Grove Township
17958 Illinois Rt. 9
Pekin, IL 61554

Scott Largent, Trustee
Elm Grove Township
712 Prairie Ln.
Tremont, IL 61568

Kevin Deppert, Trustee
Elm Grove Township
12290 Watson Rd.
Tremont, IL 61568

Jed Heisel, Trustee
Elm Grove Fire Protection Dist.
2723 Sheridan
Pekin, IL 61554

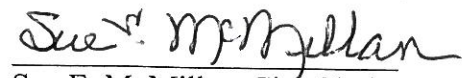
David Sangalli, Trustee
Elm Grove Fire Protection Dist.
1305 California Rd.
Pekin, IL 61554

"Exhibit C"

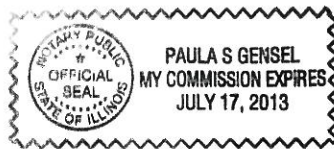
4
City of Pekin, IL

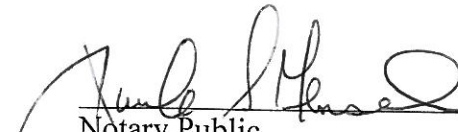
Michael Morris, Treasurer
Elm Grove Fire Protection Dist.
1401 California Rd.
Pekin, IL 61554

By mailing a true and correct copy of the same by certified mail at the addresses set forth above on the 16th day of November, 2009, by depositing the same in the United States Mail at Pekin, Illinois, postage prepaid.


Sue E. McMillan, City Clerk

SUBSCRIBED AND SWORN TO before me, a Notary Public, this 16th day of November, 2009.




Notary Public

This Instrument Prepared By:
City of Pekin
111 South Capitol Street
Pekin, IL 61554



Instrument
200900026655

PG 3 OF 4

City of Pekin

Mayor's Office

November 16, 2009

TO:

You are hereby notified that the City of Pekin, County of Tazewell, is about to annex the territory hereinafter described pursuant to the provisions of Article 7, Division 1, of the Illinois Municipal Code (65 ILCS 5/7-1-1, et seq.), and that such annexation will take place not less than ten days after the service of this notice on you. The Council intends to consider the annexation of this territory at a meeting to be held at City Hall, 111 South Capitol Street, Pekin, Illinois, on November 30, 2009 at 5:30pm.

The real estate is described as follows:

(See Exhibit "A" Attached Hereto.)

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Rusty L. Dunn", is written over a horizontal line.

Rusty L. Dunn
Mayor

ATTEST:

A handwritten signature in dark ink, appearing to read "Sue E. McMillan", is written over a horizontal line.

Sue E. McMillan – City Clerk

RLD:pg

PART OF TRACT "E" AND TRACT "D" IN PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP-24-NORTH, RANGE-4-WEST OF THE THIRD PRINCIPAL MERIDIAN, TAZEWELL COUNTY, ILLINOIS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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26 - 09/10

RESOLUTION No. _____

November 30, 2009
PEKIN, ILLINOIS, _____

RESOLUTION BY COMMISSIONER _____

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PEKIN, ILLINOIS, THAT:

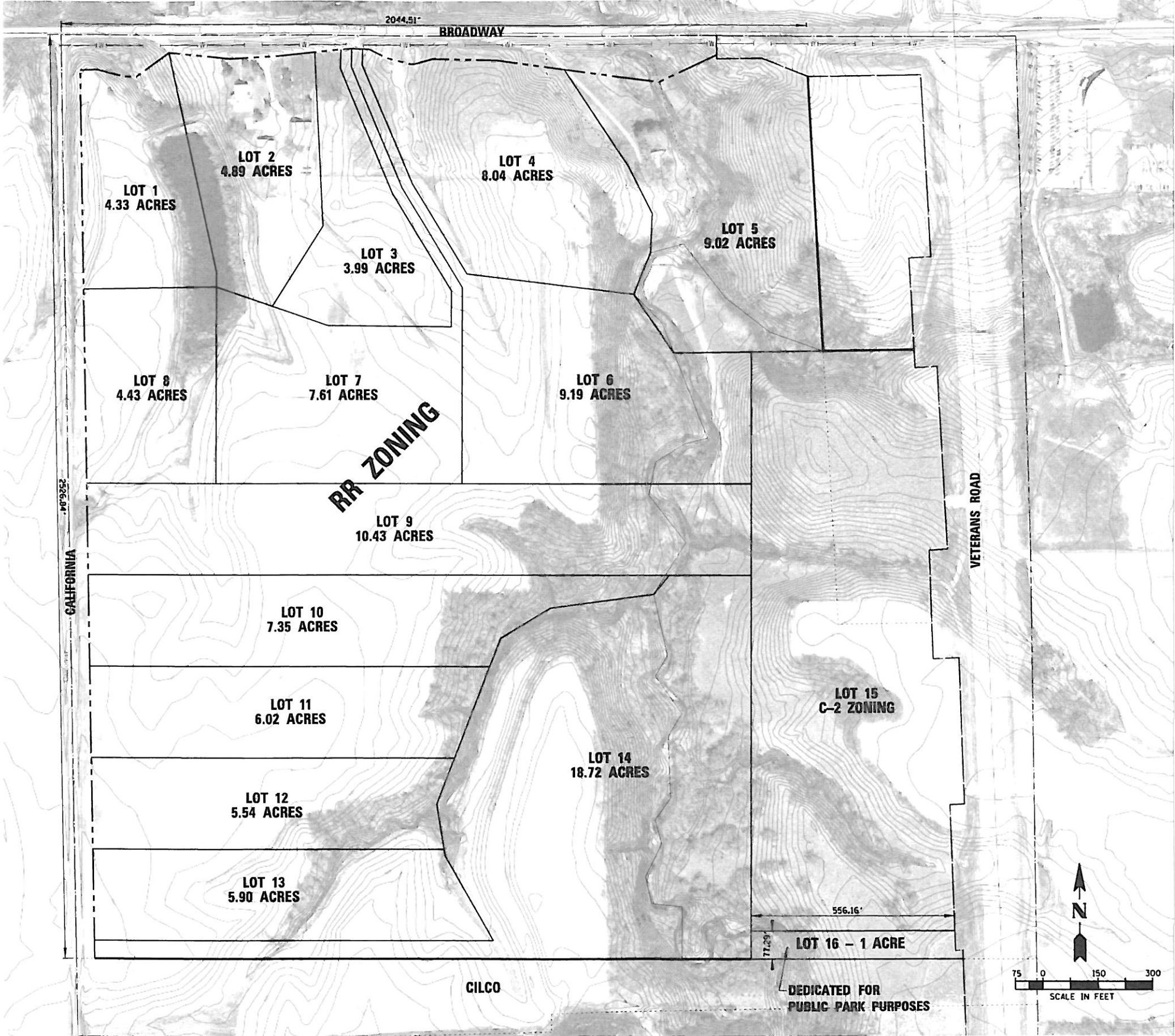
The Preliminary Estates at Lakeview Subdivision is hereby approved.



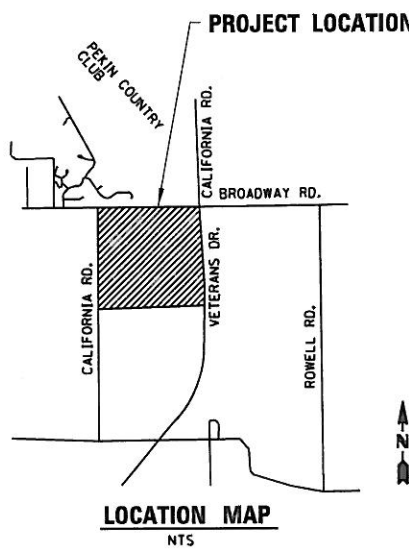
SIGNED BY _____

MAYOR.

PRELIMINARY PLAT FOR
ESTATES AT LAKEVIEW SUBDIVISION



- LEGEND**
- PROPOSED R.O.W. LINE
 - PROPOSED LOT LINE
 - EXISTING WATER LINE
 - EXISTING R.O.W. LINE
 - R.O.W. RIGHT-OF-WAY
 - U.E. UTILITY EASEMENT
 - PROPOSED BUILDING SETBACK LINE
 - B.S.L. BUILDING SETBACK LINE
 - T.C.R.O. TAZEWELL COUNTY RECORDER'S OFFICE



GENERAL NOTES

- OWNER & DEVELOPER
THE ESTATES AT LAKEVIEW, LTD.
P.O. BOX 1138
PEKIN, ILLINOIS 61555
(309) 642-4077
- ENGINEER
DEBRA A. ROE, P.E.
CHRISTOPHER B. BURKE ENGINEERING, LTD.
202 NE MADISON AVENUE, SUITE 301
PEORIA, ILLINOIS 61602
(309) 676-9000
- SURVEYOR
DANIEL J. EVANS, P.L.S.
CHRISTOPHER B. BURKE ENGINEERING, LTD.
202 NE MADISON AVENUE, SUITE 301
PEORIA, ILLINOIS 61602
(309) 676-9000
- PROPERTY IS CURRENTLY ZONED RR WEST OF CREEK AND IS ZONED C-2, EAST OF THE CREEK, LOCATED IN ELM GROVE TOWNSHIP
- 12' UTILITY EASEMENTS SHALL BE PROVIDED ON FRONT LOT LINES. A 6' UTILITY EASEMENT SHALL BE PROVIDED ON SIDE AND REAR LOT LINES.
- BUILDING SETBACK LINE SHALL BE 25'.
- DRAINAGE, STORM AND SANITARY EASEMENTS SHALL BE PROVIDED WITH SUFFICIENT WIDTH FOR MAINTENANCE AND STORM WATER CONVEYANCE.
- RESIDENTIAL LOTS TO HAVE SEPTIC SYSTEMS IN ACCORDANCE WITH TAZEWELL COUNTY HEALTH DEPARTMENT REQUIREMENTS. COMMERCIAL LOTS TO CONNECT TO CITY OF PEKIN SANITARY SEWER.
- CONTOURS ARE BASED ON CITY OF PEKIN AERIAL TOPO DRWS.
- THE PROPERTY SHOWN HEREON IS LOCATED IN ZONE C, PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 170815-0150B, EFFECTIVE DATE: AUGUST 1, 1980. ZONE C DENOTES AREAS OF MINIMAL FLOODING.

	CHRISTOPHER B. BURKE ENGINEERING LTD. 202 NE Madison Avenue, Suite 301 Peoria, Illinois 61602 (309) 676-9000 Design Firm Registration # 184-001175	CLIENT: MILLER/GLASSEY GROUP					TITLE: ESTATES AT LAKEVIEW PRELIMINARY PLAT	PROJECT NO. 07-352
								SHEET OF
								DRAWING NO.
			NO.	DATE	NATURE OF REVISION	CHKD.		
			FILE NAME	P:\07352\Civil\9-24-09.PPL				
			DSGN.	DAR	LTW			
			CHKD.	300'				
			SCALE:	DATE:			9/25/2009	
			PLOT DATE:					

ORDINANCE NO. 1568-A178-09/10

**AN ORDINANCE PROVIDING FOR THE
REZONING OF CERTAIN PROPERTY**

WHEREAS, Estates at Lakeview, Ltd., is the owner of the parcel herein described, hereinafter referred to as "Petitioner", and has heretofore requested the rezoning of certain property hereinafter described in this ordinance; and

WHEREAS, the Petitioner has requested that the property hereinafter described be rezoned from its current zoning of RR (Rural Residential District) to R-1 (One-Family Residential District) Lots 1 thru 14; and from C-2 (General Business) to B-3 (General Business District) Lots 15 and 16.

WHEREAS, the Petitioner has given due notice to all interested parties; and notice of a public hearing was duly published according to the law on September 23, 2009, in the Peoria Journal Star, Pekin, Illinois; and

WHEREAS, pursuant to notice duly published according to law, the Planning Commission held a public hearing at 6:30 p.m. on October 14, 2009, and subsequent to said hearing duly transmitted its recommendations to the City Council recommending the zoning of said property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, ILLINOIS:

1. That the following described property is hereby zoned as R-1 (One-Family Residential District) Lots 1 thru 14 and B-3 (General Business) Lots 15 and 16.

(SEE ATTACHED)

PIN # 11-05-100-005, 11-05-100-008, 11-05-100-010

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon its passage and approval.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Pekin, this _____ day of _____, 2009; and upon roll call the vote was as follows:

AYES:

NAYS:

ABSENT:

ABSTAINING:

APPROVED this _____ day of _____, 2009.

MAYOR

ATTEST:

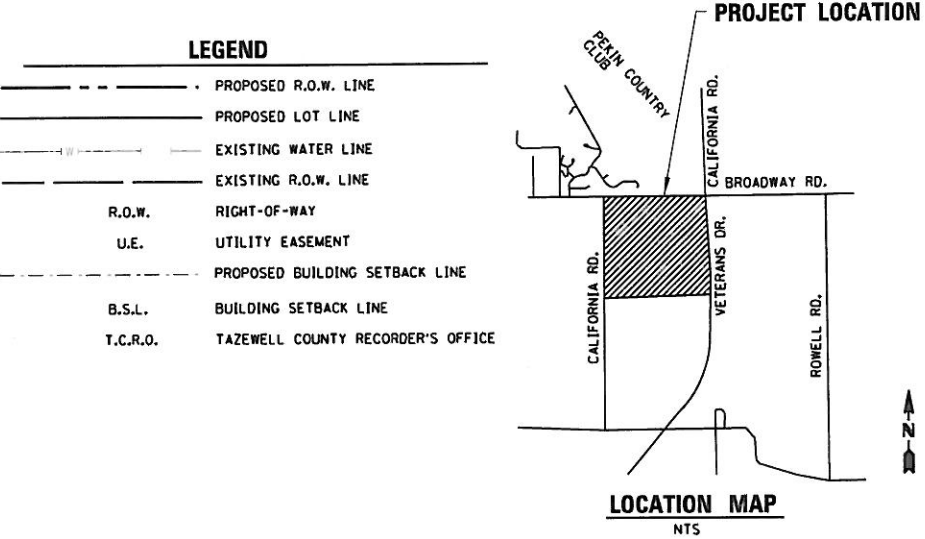
CITY CLERK

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PRELIMINARY PLAT FOR
ESTATES AT LAKEVIEW SUBDIVISION



GENERAL NOTES

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THE ESTATES AT LAKEVIEW, LTD.
P.O. BOX 1138
PEKIN, ILLINOIS 61555
(309) 642-4077
- ENGINEER
DEBRA A. ROE, P.E.
CHRISTOPHER B. BURKE ENGINEERING, LTD.
202 NE MADISON AVENUE, SUITE 301
PEORIA, ILLINOIS 61602
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		FILE NAME P:\07352\Civil\9-24-09.PPL				