



# City of Aurora

44 East Downer Place  
Aurora, Illinois 60505  
www.aurora-il.org

## Legistar History Report

**File Number: 18-0893**

**File ID:** 18-0893

**Type:** Petition

**Status:** Draft

**Version:** 3

**General Ledger #:**

**In Control:** Planning & Development Committee

**File Created:** 09/27/2018

**File Name:** Gottemoeller Real Estate, Ltd. / Vacant Property on Orchard-Gateway Road N of Vision Court / Annexation Agreement

**Final Action:**

**Title:** An Ordinance Providing for the Execution of an Annexation Agreement with the Owners of Record Providing for ORI(S) Office, Research, and Light Industrial District with a Special Use zoning for the territory which may be Annexed to the City of Aurora located at west side of Orchard-Gateway Road, north of Vision Court being Vacant Land in Kane County, Aurora Illinois 60506 (Gottemoeller Real Estate, Ltd. - 18-0893 / SG01/3-18.179-PA - TV - Ward 5) (PUBLIC HEARING)

**Notes:**

**Agenda Date:** 11/15/2018

**Agenda Number:**

**Sponsors:**

**Enactment Date:**

**Attachments:** Exhibit "A" Annexation Agreement - 2018-11-05.pdf, Land Use Petition and Supporting Documents - 2018-09-28 - 2018.179.pdf, Plat of Survey - 2018-09-28 - 2018.179.pdf, Legistar History Report - 2018-10-30 - 2018.179.pdf, Findings of Fact - 2018-10-30 - 2018.179.pdf

**Enactment Number:**

**Planning Case #:** SU01/3-18.179-PA

**Hearing Date:**

**Drafter:** tvacek@aurora-il.org

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Committee of the Whole	10/02/2018	Forward to Planning Council	Planning Council			
	<b>Action Text:</b> This Petition was Forward to Planning Council to the Planning Council						
1	Planning Council	10/09/2018					
	<b>Notes:</b> <i>Representative Present: Bruce Goldsmith</i>						
	<i>Mr. Goldsmith said if you visualize Orchard Gateway Development, you have the PPG at the east end</i>						

and at the west end you have vacant land. Our client owns the property just at the elbow of Orchard Gateway as it goes south toward the TV Production facility. It is kind of bounded on the west and north by Kane County Forest Preserve. On the south, there is potential development as part of Orchard Gateway Development. The east is, in fact, Orchard Gateway Road. The goal is to develop that site for ORI. A good portion of the site is in flood plain, so we know that there is a very limited part of the site that can be developed, but we are confident that there is enough land to develop. This was the subject of litigation with the city that lead to a post-settlement agreement. As part of the settlement agreement, we are submitting an Annexation Agreement to be approved with the settlement agreement.

Mr. Sieben said so we would do the Annexation Agreement and at such time a future buyer/developer were to develop, then we would follow through with them with the actual annexation and zoning. But this will set the stage for what will happen.

Mr. Goldsmith said it will. It is good for an extended period of time. It will allow the client to market the property. It turned out the property is too small for the use. It was not a trucking facility, but it was a rest point and maintenance area, Continental Express, which does refrigerated trucking for the food industry in the Chicago area. So they do logistical support for Nestles and Dannon and several other food suppliers. So that use didn't work because they needed 6 to 8 acres of buildable land and probably they could squeak in 5 to 6 acres. Just to fill it out, the settlement agreement allows curb access to Orchard Gateway and then the Annexation Agreement allows the property to be rezoned for ORI, which is consistent with the adjacent property.

Mrs. Vacek said this will go on November 7th to Planning Commission, so I will be getting you out public notices and I will get you out the notice to sign and everything. It will be done in December because we have to wait 2 weeks from COW to City Council because I have to publish for that.

Mr. Goldsmith said my recollection was we were talking the last 2 meetings in November.

Mrs. Vacek said and I forgot that we skip a meeting. We skip the first City Council so I can publish. It will go November 7th to Planning Commission, November 15th to P&D, November 20th to COW and it will skip that City Council and it will go on December 11th to City Council.

Mr. Goldsmith said for the sign, given that there is only one street face, we would just have one sign?

Mr. Sieben said correct.

Mr. Goldsmith said for the Annexation Agreement itself at City Council, you need 2 weeks?

Mrs. Vacek said for the Annexation Agreement I need 2 weeks so I can publish for the City Council meeting.

Mr. Goldsmith said and that's the only notice for that?

Mrs. Vacek said correct.

1 Planning Council 10/16/2018

**Notes:** Mr. Sieben said Tracey has been working with Legal and the Petitioner. This is related to a settlement agreement for a driveway and this will be moving on to the November 7th Planning Commission.

Mr. Feltman said we redlined it and sent it out.

Mr. Sieben said so you are working with their attorneys and our attorneys?

Mr. Feltman said yes.

1 Planning Council 10/23/2018

**Notes:** Mrs. Vacek said this is set for the November 7th Planning Commission, so we will vote this out next

week.

1	Planning Council	10/30/2018	Forwarded	Planning Commission	11/07/2018	Pass
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**Action Text:** A motion was made by Mrs. Vacek, seconded by Mrs. Minnella, that this agenda item be Forwarded to the Planning Commission, on the agenda for 11/7/2018. The motion carried by voice vote.

**Notes:** *Mrs. Vacek said this is moving forward to the November 7th Planning Commission so I do make a motion to move this forward. Mr. Minnella seconded the motion. The motion carried unanimously.*

2	Planning Commission	11/07/2018	Forwarded	Planning & Development Committee	11/15/2018	Pass
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**Action Text:** A motion was made by Ms. Tidwell, seconded by Mrs. Owusu-Safo, that this agenda item be Forwarded to the Planning & Development Committee, on the agenda for 11/15/2018. The motion carried.

**Notes:** *Mrs. Vacek said the subject property is currently 35.05 acres and is currently vacant and is within unincorporated Kane County with agricultural zoning. The Petitioner is requesting approval of an Annexation Agreement. The Annexation Agreement includes provisions for the annexation, the establishment of a Special Use Planned Development with ORI Office, Research and Light Industrial District zoning. It also provides for the extension of Orchard Gateway through the subject property to the west of their property line, which then would go further west into Sugar Grove if that ever happened. The Annexation Agreement is binding for 15 years and at this time the Petitioner is not looking to annex the property or zone the property to ORI, but the Annexation Agreement is before you. It is basically what we call a pre-Annexation Agreement. It just kind of defines what the property could be used for. With that, I can turn it over to the Petitioner, unless you have any other questions for me.*

*The Petitioner was sworn in.*

*Good evening. I'm Bruce Goldsmith from the Dykema law firm representing the owner. It is pretty straightforward. This property generally is in an area of ORI development. The major piece of development is the PPG facility at Deerpath and Orchard Gateway. Because of stormwater issues and some wetland issues, there's not a lot of property in this area to be developed and this property, the subject property, is surrounded on the north and west by Forest Preserve, the Kane County Forest Preserve District. Much of this property is also in the flood plain. A small portion of the property can be developed. ORI is the best use because of the proximity to other similar uses. The TV station is down in the corner on Vision Court and PPG is at the east end of Orchard Gateway. There is really nothing in between other than a baseball field.*

*Chairman Truax said when would you expect to see this happen?*

*Mr. Goldsmith said so my client is actually in the refrigerated trucking business and wanted to use the site for his own business. He provides support for facilities that have refrigerated foods like Nestles and Dannon and stuff. Unfortunately, the site is a little too small for the proposed use, so he has basically acquired it and is going to market it for a smaller user. The reason for the delay in actually annexing the property is the property is not yet in Fox Metro. Fox Metro has an annexation fee of \$8,000 per acre and the fee is charged on the whole acreage, not just on the usable acreage, so given the fact that 80% of the property can't be developed because of flood plain, it makes no sense to do it until we can come in and probably separate out as open space part of the property and the rest would be developed.*

*Mr. Pilmer said I just have one quick question. Is the property to the north and west Forest Preserve?*

*Mr. Sieben said yes.*

*Mr. Goldsmith said I'm not sure who owns the baseball field, but generally to the north and west is part of the Forest Preserve.*

*The public input portion of the public hearing was opened. No witnesses came forward. The public input portion of the public hearing was closed.*

*Mrs. Vacek said staff would recommend approval of the Ordinance providing for the execution of an Annexation Agreement with the owners of record providing for ORI(S) Office, Research and Light Industrial District with a Special Use zoning for the territory which may be annexed to the City of Aurora located at the west side of Orchard Gateway Road, north Vision Court being vacant land in Kane County, Aurora, Illinois.*

*MOTION OF APPROVAL WAS MADE BY: Ms. Tidwell*

*MOTION SECONDED BY: Mrs. Owusu-Safo*

*AYES: Mrs. Anderson, Mr. Cameron, Mr. Chambers, Mrs. Cole, Mr. Divine, Mrs. Head, Mrs. Owusu-Safo, Mr. Pilmer, Mr. Reynolds, Ms. Tidwell*

*NAYS: None*

#### *FINDINGS OF FACT*

*1. Is the proposal in accordance with all applicable official physical development policies and other related official plans and policies of the City of Aurora?*

*Mrs. Cole said these are listed in the staff report.*

*2. Does the proposal represent the logical establishment and/or consistent extension of the requested classification in consideration of the existing land uses, existing zoning classifications, and essential character of the general area of the property in question?*

*Mr. Reynolds said I presume that it is the highest and best use of the property.*

*3. Is the proposal consistent with a desirable trend of development in the general area of the property in question, occurring since the property in question was placed in its present zoning classification, desirability being defined as the trend's consistency with applicable official physical development policies and other related official plans and policies of the City of Aurora?*

*Mr. Reynolds said right now the proposal represents the highest and best use of the property.*

*4. Will the proposal maintain a compatible relationship with the traffic pattern and traffic volume of adjacent streets and not have an adverse effect upon traffic or pedestrian movement and safety in the general area of the property in question?*

*Chairman Truax said it seems like it is kind of too early to answer that question.*

*5. Will the proposal allow for the provision of adequate public services and facilities to the property in question and have no adverse effect upon existing public services and facilities?*

*Mrs. Head said their proposal hasn't been presented yet, so no.*

*6. Does the proposal take adequate measures or will they be taken to provide ingress and egress so designed as to maximize pedestrian and vehicular circulation ease and safety, minimize traffic congestion, and not substantially increase the congestion in the public streets?*

*Mrs. Cole said they will be taken in the future.*

*9a. Will the Special Use not preclude the normal and orderly development and improvement of surrounding properties due to the saturation or concentration of similar uses in the general area?*

*Chairman Truax said I'm not sure saturation is an issue here.*

*Mr. Goldsmith said can I help you on this for a minute?*

*Chairman Truax said yes.*

*Mr. Goldsmith said well this is an industrial park and Orchard Gateway is a 39 foot back to back road, which supports a lot of traffic. It is only going to have very limited traffic and so the use is not only compatible, but it is consistent with orderly development.*

*9b. Is the Special Use in all other respects in conformance to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the City Council pursuant to the recommendations of the Plan Commission?*

*Chairman Truax said I think it conforms in all other respects.*

*Mrs. Vacek said this will next be heard at the Planning and Development Committee on Thursday, November 15, 2018, at 4:00 p.m. on the fifth floor of this building.*

*Aye: 10 At Large Cameron, At Large Cole, At Large Pilmer, Aurora Twnshp Representative Reynolds, At Large Anderson, Fox Metro Representative Divine, Fox Valley Park District Representative Chambers, At Large Owusu-Safo, SD 129 Representative Head and At Large Tidwell*

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