



City of Aurora

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

Legistar History Report

File Number: 14-00807

File ID: 14-00807

Type: Ordinance

Status: ATS Review

Version: 3

General Ledger #:

In Control: Planning & Development Committee

File Created: 09/19/2014

File Name: CIMA Developers, Inc. - Annexation Agreement

Final Action:

Title: An Ordinance Providing for the Execution of an Annexation Agreement and establishing B-2(S) General Retail Business District and OS-1(S) Conservation zoning, with the Owners of Record of the property located at 33W991 and 34W104 Butterfield Road, being Vacant Land in Kane County, Aurora Illinois

Notes:

Agenda Date: 05/28/2015

Agenda Number:

Sponsors:

Enactment Date:

Attachments: Exhibit "A" Annexation Agreement 2015-01-21-2013.217.pdf, Property Research Sheet, Land Use Petition and Supporting Documents - 2014-09-17 - 2013.217.pdf, ALTA Survey - Butterfield Road - 2014-09-17 - 2013.217.pdf, Legistar History Report (Annexation Agreement) - 2015-05-14 - 2013.217.pdf

Enactment Number:

Planning Case #: BA36/3-13.217-PA/A

Hearing Date:

Drafter: tvacek@aurora-il.org

Effective Date:

History of Legislative File

| Version: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|----------|---|------------|-----------------------------|--------------------------------------|------------|--------------|---------|
| 1 | City Council | 09/23/2014 | Forward to Planning Council | DST Staff Council (Planning Council) | 09/30/2014 | | |
| | Action Text: This Request and Referral was referred to the Planning Council and Planning Commission. | | | | | | |
| 1 | DST Staff Council (Planning Council) | 09/30/2014 | | | | | |
| | Notes: Mrs. Vacek said so 3 of the properties, I believe, are outside the city limits and then the other 2 are inside, so they would be rezoning the entire property to B-2 Special Use. | | | | | | |
| | <i>Representatives Present: Dan Soltis, Dave Johnson, Phil Brasse</i> | | | | | | |
| | <i>I'm Phil Brasse. I work for CIMA Developers. I'm the Asset Manager and so I acquired this parcel and now I'm handing it over to Dan to review the plan.</i> | | | | | | |

I'm Dan Soltis. I'm with CIMA Developers as well. I represent ownership of the property. We're proposing a 10,000 square foot retail building as well as a 1,900 square foot stand-alone quick service restaurant with drive-thru. We have a signed release for the stand-alone restaurant with Jimmy Johns Sandwiches. Right now we are working with some potential tenants for the retail center. We don't have those locked down. We are talking to Burger King. We are talking to another one of our current tenants that we have in one of our other centers in St. Charles, but we don't quite have that confirmed yet, but we are working toward that. We are also working with a car auto parts store for the vacant outlot that does not show the current setback.

Mr. Sieben said do you want to give a little history Dan? You guys recently purchased the B-2 properties so you run that too.

Mr. Soltis said correct. The dealer was in bankruptcy and so we were able to help him out of this one site. We bought this one and Atlas bought the other site that he had.

Mr. Sieben said and do you want to explain the upgrade you did to that current site?

Mr. Johnson said we did full brick and stone façade on the convenient store. We've done a full brick and stone façade car wash building as well as new car wash equipment inside the car wash building. We've done brick and stone façade improvements on the canopy columns. We have asphalt, new dispensers. We have the quick service restaurant, and our proprietary urban counter restaurant offer as well, which just opened last month. It is doing very well without any advertising. Interior-wise, we did a complete full remodel interior, flooring, LED lighting, countertops, restaurant equipment, cabinetry, so really a remodel inside as well.

Mr. Sieben said so you are looking at doing similar higher end features on the new buildings, correct?

Mr. Johnson said correct. Both new buildings are going to have the same architectural features, stone, brick façade. I did provide those. I don't have those with me, but staff does have those current elevations. Every (inaudible) location that we do own we do take quite a bit of pride in them. Obviously we are going to own and operate that site for a long time. We are going to own and operate the development as well. As you mentioned, we made quite a bit of improvements to this so we just want to continue that offer.

Mr. Sieben said before we get into the site, do you want to just give a little background of that outlot, the house property there to the west of the detention? We first started talking about this about a year ago.

Mr. Soltis said after we bought the property, we contacted that person at the house and he's not very friendly. I don't know if he is going to return my call. I called the other day. He called me back and I don't know if he is going to call me back anymore. We offered him \$80,000 for his home. I thought we would negotiate from there. He informed me that he was offered \$220,000 the year before and he'd be dammed if he would take any less than that. We don't think it is worth anywhere near...

Mr. Wiet said did he turn that down, the \$220,000?

Mr. Soltis said yes he did turn that down. We don't know where to go with him at this point. He is not very friendly. We've ask him to move onto the easement that he has for access. We said we would actually move him to the other parcel and give him the easement there because there is already a roadway on that and we wouldn't have to build one on the easement area that he actually holds. He told me no he wouldn't do that. He'd rather build his own road then deal with us. So he said he would build his own new road. I am calling him again and why I called him most recently is I still would like to move him over. I've told him I'll asphalt his new driveway if he'll move over to the easement as we do this project and he hasn't returned my call yet.

Mr. Sieben said if that house stays, you will need to show their driveway connection up to your east/west driveway.

Mr. Soltis said he doesn't actually have an easement where that driveway is today. He utilizes the parcel across the street, the house that was built originally. It was 2 easements, each 2 residents, 33 feet in width for both of them. Our plan with him is just to have the driveway wherever it ends up being come up to a "T" at that new street that we will put in and then you need to either go right or left and get out to Butterfield or up to Church.

Mr. Sieben said so you are proposing those old drives that were there, those would be removed and then you are proposing the one right-in/right-out on the west side of the retail building.

Mr. Soltis said yes.

Mr. Sieben said and then you would make a cross connection to the West Suburban Bank commercial facility. They have cross access to this site.

Mr. Soltis said right.

Mrs. Vacek said I just have a few questions. The Jimmy Johns, do you know how many seats are actually going to be provided in there or do you have a rough estimate? How did you guys come up with your parking because it is per seats?

Mr. Soltis said I've done many Jimmy Johns. I don't ever see more than 3 or 4 cars parked because most people don't eat there. They seem to pick up and go, but I don't know how they calculated that.

Mrs. Vacek said then as we probably mentioned before, I think that we want to see a preliminary of how that last layout is going to be on that undeveloped area. That will be one of my comments. We'll be taking a look at that. I'll be finishing up my review and I'll be getting it out shortly to you.

Mr. Feltman said as far as Engineering, I think we've sent out comments. The biggest concern really is revolved around the detention basin. There are a few items and obviously there is a detailed review comment letter that went out, but in general it looks like it is undersized right now based on our modified rational method calculation sheet. In addition, where the retaining wall is in relation to the existing grades, we are going to have to really look at that pretty close because it doesn't appear that there is enough transitional grading from the top of the wall down to the existing grade. We just really need to spend a little more time making sure that that footprint is correct. The detention basin is really the biggest issue. There was another issue with the detention basin in relation to the high water level. What you were proposing actually is higher than the existing gas station elevation, so we're not really sure how that's all going to work, so we just need to really look and make sure because from an Engineering standpoint we don't want the footprint of the basin to be moving around in final. We'd rather have it be kind of at least relatively locked down in the preliminary so we all have a very good feel and understanding from what is developable and what the building pads will look like as far developed pads.

Mr. Sieben said and like Dan said, I know this is preliminary, but that detention is really going to potentially drive some movements of some lines here. The other comment, just a real quick comment I made when you submitted, we would most likely be looking at meeting the required setbacks for the Jimmy Johns on Farnsworth as that is a new green grass development. I know you are lining up with the gas station, but that's pre-existing and then the right-of-way has been kind of expanded over the time and I think you've got room to do that, so we'll just have to take a look at that.

Mr. Soltis said that parcel actually is part of the service station lot and has nothing to do with the back property, so that has to come up to the standard...

Mr. Sieben said but right now it is green grass, so you are developing kind of a green grass portion of it.

Mr. Perez said and as far as the Fire Plan, we need to locate the sprinkler room, the Fire Department connection. There is a hydrant there. It is showing distance from the building, so I imagine that's what you were trying to show, but we need to locate the exterior door to both sprinkler rooms.

Mr. Sieben said so Zoning will be getting out our comments soon.

1 DST Staff Council 10/07/2014
(Planning Council)

Notes: Mrs. Vacek said I am preparing the Annexation Agreement. I've reviewed the other things, so I would assume that comments would be going out later this week. We are tentatively setting it for the November 19th Planning Commission.

Mr. Wiet said is Dan working on the Engineering issues?

Mr. Sieben said Mary actually sent some comments on the detention area that it appeared to be

insufficient so they are going to have to still work on that.

1 DST Staff Council 10/14/2014
(Planning Council)

Notes: *Mrs. Vacek said I'm finishing up my review comments today, so they will be going out today. We will be looking for revisions.*

Ms. Phifer said we are tentatively looking at sending this to public hearing in November, so if anybody has comments or concerns with that, let us know.

Mr. Feltman said we have significant concerns about the sizing of the detention basin, just even the calculations that they provided shows that it is short, but I think they spent a lot of time looking at the transition grading or how this will actually fit with all the retaining walls and the existing grade, so we're concerned that the basin's size is going to change.

Ms. Phifer said so right now we are kind of targeting the second one in November, but that's only if they can address all of the comments from both Engineering and Planning and Zoning because we have a number of comments as well. Does Fire have any?

Mr. Perez said there were some minor things, but we'll forward you those also.

1 DST Staff Council 10/21/2014
(Planning Council)

Notes: *Mrs. Vacek said I have a meeting set up on Wednesday at 3:00 p.m. just to go over some formatting changes with the engineer.*

Mr. Feltman said we have not heard anything.

Mrs. Vacek said well I just sent my comments out late last week, so that's probably why you haven't heard anything because they were probably waiting for my comments. I know he just basically told me he wanted formatting, or he wanted to go over some formatting things.

Mr. Feltman said well the detention basin is going to change from what they have shown now.

Mrs. Vacek said yes, understood.

1 DST Staff Council 10/28/2014
(Planning Council)

Notes: *Mrs. Vacek said I did send out comments a week and a half ago, so I'm just waiting to hear back.*

Mr. Feltman said we have some significant comments on the stormwater management and we're just waiting for a resubmittal.

1 DST Staff Council 11/04/2014
(Planning Council)

Notes: *Mr. Sieben said comments have gone out from Planning and Zoning and, I believe, Engineering and we are waiting for revisions back.*

Mr. Feltman said we had significant comments on the stormwater management and we would like to see a resubmittal that addresses our comments because it could change the site plan.

Mr. Sieben said so this is on hold until we get that back with that assurance.

1 DST Staff Council 11/18/2014
(Planning Council)

Notes: *Mrs. Vacek said we sent out review comments a while back. They've made changes. They are going to meet with us on Wednesday to go over those. I don't know if you want to be there or not.*

Mr. Feltman said yes.

Mrs. Vacek said it is at 3:00 o'clock in our office. I'm assuming that they are not doing all the things that we asked them to do because they would like to meet with us.

1 DST Staff Council 11/25/2014
(Planning Council)

Notes: *Mrs. Vacek said we met with them last week and went over our concerns with the proposal that they had. They were going to take it back and take a look at it again.*

Mr. Sieben said and Mary Garza from Engineering sat in on the meeting. I think as of now the volume is barely there, but there is still a lot of...

Mrs. Vacek said grading issues.

Mr. Feltman said just so you know how they have it set up right now is there is a retaining wall holding back the water right at the edge of the property. It can't work.

Mr. Sieben said Mary did relay that. There is still work that needs to be done. Their Engineer was not at the meeting. It was just the owners.

- 1 DST Staff Council 12/02/2014
(Planning Council)

Notes: *Mrs. Vacek said we are still waiting for comments. We met with them a couple of weeks ago. I will see when we sent those and we may be putting that down to Pending.*

- 1 DST Staff Council 12/09/2014
(Planning Council)

Notes: *Mrs. Vacek said I have not heard back from them. I sent out comments awhile back. I'll get the exact date of when I sent them out, but we're just waiting to get revisions.*

Mr. Sieben said has Engineering heard anything back?

Mr. Feltman said no.

Mr. Sieben said so it is in their court?

Mr. Feltman said yes.

- 1 DST Staff Council 12/16/2014
(Planning Council)

Notes: *Mrs. Vacek said there is no update. I will be sending a Pending letter after the 1st of the year if I have not received a response.*

- 1 DST Staff Council 01/06/2015
(Planning Council)

Notes: *Mrs. Vacek said they sent me a revised Preliminary Plan yesterday. I'm still awaiting the Preliminary Plat and Annexation Plat Revision. I know that Engineering is looking for Engineering comments back.*

Mr. Feltman said we are looking for a response. This seems a little more reasonable, the plan, but we'll need to see what the detention requirements are. I'd like to see some of these inverts that they are using for the outlets just to make sure that the bottom of the pond is accurate.

Mrs. Vacek said I just quickly looked at it. There are a couple of concerns that I have, but I need to fully review it. I'll be reviewing this once I get the other two documents so I can review it all at once.

Ms. Phifer said and you are going to reach out to them and let them know that it was not a complete resubmittal and that we are still waiting an update?

Mrs. Vacek said yes. He basically sent me an e-mail this morning. I haven't responded because I was waiting to talk it through, but he basically said he doesn't want to finish final engineering until we make sure that the layout is okay, but final engineering is a critical path to what the layout is going to be.

Mr. Feltman said well I think we can have some basic information. It doesn't have to be final engineering plans. We need to know that the pond is going to be appropriately sized.

Mrs. Vacek said I'll be reaching out to them after this meeting.

- 1 DST Staff Council 01/13/2015
(Planning Council)

Notes: *Mrs. Vacek said they did resubmit the Preliminary Plan, the Preliminary Plat, and the Annexation Plat, so I will be taking a look at those this week. We have maybe a couple of concerns, but it looks much better than it did.*

Mr. Feltman said we did not receive any stormwater calculations, so we can't verify that the footprint of the detention basin is appropriate. After we talked internally, we think that the applicant should

probably at least touch base with IDOT to make sure that the access drive location is going to be acceptable because it could have an impact on the site plan if IDOT starts making comments that the access has to move.

Mrs. Vacek said and that is for Butterfield Road.

- 1 DST Staff Council 01/20/2015
(Planning Council)

Notes: Mrs. Vacek said I have started reviewing the resubmittal, so I should have comments out this week. There are a couple of concerns that we have with some of the dimensions.

Mr. Feltman said it would be good for us to get a modified rational method calc sheet so that we can check the detention volumes. It appears, based on our preliminary review, they might be a little short of volume.

Ms. Phifer said and who is the review engineer on this?

Mr. Feltman said Mary Garza.

Mrs. Vacek said Matt, did you get the revised plan?

Mr. Perez said yes.

Mrs. Vacek said and you are okay with everything?

Mr. Perez said I believe everything was good.

- 1 DST Staff Council 01/27/2015
(Planning Council)

Notes: Mrs. Vacek said I have reviewed this and I will be sending comments out today. There are still some pretty big issues on this with the back area, the isle area, so I will be sending that out today.

Mr. Feltman said we still need documentation on the stormwater management, but it appears that they are short volume as they currently show it.

- 1 DST Staff Council 02/03/2015
(Planning Council)

Notes: Mr. Sieben said I know Planning and Zoning has sent out comments.

Mr. Feltman said Engineering has reviewed it and sent out comments. It appears that we still need the modified rational of the calculation sheet to verify the stormwater volume. It appears they might be a little short still, so we need verification of that.

- 1 DST Staff Council 02/10/2015
(Planning Council)

Notes: Mrs. Vacek said I sent out comments a couple of weeks ago and I haven't heard anything back.

Mr. Feltman said Engineering still has comments on the stormwater management being less than what's required. We have not received a response to our comments.

- 1 DST Staff Council 02/17/2015
(Planning Council)

Notes: Mrs. Vacek said I sent out comments about a month ago and I have not received anything back. I'm just waiting to hear back.

Ms. Phifer said and at the next meeting we will probably put this on pending.

Mrs. Vacek said probably.

Mr. Feltman said Engineering is waiting for a response as well.

- 1 DST Staff Council 02/24/2015
(Planning Council)

Notes: Mrs. Vacek said I have not heard anything back from them, so I will be putting this down to Pending. As of next week, it will be going down to pending.

- 1 DST Staff Council 03/03/2015
(Planning Council)

1 DST Staff Council 03/10/2015
(Planning Council)

Notes: Mrs. Vacek said I just wanted to bring up that CIMA did resubmit to Planning, but they have not resubmitted the Fire Plan, as well as any Engineering, so it will stay on pending until they resubmit those.

Ms. Phifer said we need to remind them that if we don't get those other comments by the date, it will still be closed.

1 DST Staff Council 03/17/2015
(Planning Council)

1 DST Staff Council 03/24/2015
(Planning Council)

1 DST Staff Council 03/31/2015
(Planning Council)

1 DST Staff Council 04/07/2015
(Planning Council)

Notes: Mrs. Vacek said I left this on Pending. We did get a resubmittal of all 4 things. However, they did not make any changes to the Fire Plan at all, so I left this down at Pending because it is not a full resubmittal.

Ms. Phifer said did they give us engineering?

Mr. Feltman said no.

Mrs. Vacek said they did give you engineering, or at least I saw that there was engineering in there. I'm pretty sure that we sent it over.

Mr. Beneke said like she said, we did not get any changes at all. They made a call to Gary this morning. Gary and I have returned that phone call and he said he took care of all the comments. We told him he didn't and explained what wasn't taken care of. They said they are going to take care of it, including separate taps and all that kind of stuff. We talked about that too. So we've had a conversation with them. We'll see where it goes.

Ms. Phifer said so if we get a resubmittal, maybe we can pull this up next week. We'll have to wait and see.

1 DST Staff Council 04/14/2015
(Planning Council)

1 DST Staff Council 04/21/2015
(Planning Council)

1 DST Staff Council 04/28/2015
(Planning Council)

Notes: Mrs. Vacek said this is scheduled for the May 20th Planning Commission, so I will be moving these forward. I believe that there will be some conditions on here.

1 DST Staff Council 05/05/2015
(Planning Council)

Notes: Mr. Sieben said I believe this is set for the May 20th Planning Commission meeting.

Ms. Phifer said we will vote this out next week, so if anybody has any conditions, make sure and let us know on the record next week.

Mr. Beneke said I don't think we ever received a resubmittal for fire on this, but I'm not sure. I'd have to look.

1 DST Staff Council 05/12/2015 Forwarded Planning 05/20/2015 Pass
(Planning Council) Commission

Action Text: A motion was made by Mrs. Vacek, seconded by Mr. Minnella, that this agenda item be Forwarded to the Planning Commission, on the agenda for 5/20/2015. The motion carried by voice vote.

Notes: Mrs. Vacek said this is going to the May 20th Planning Commission. I make a motion to move this forward. There will be 2 conditions on this petition:

1. That the Butterfield Drive be relocated to the western end of the property where the current

access exists.

2. That a guardrail be installed along the northern detention pond.

Mr. Minnella seconded the motion. The motion carried unanimously.

| | | | | | | |
|---|---------------------|------------|-----------|--|------------|------|
| 2 | Planning Commission | 05/20/2015 | Forwarded | Planning & Development Committee | 05/28/2015 | Pass |
|---|---------------------|------------|-----------|--|------------|------|

Action Text: A motion was made by Mrs. Truax, seconded by Mr. Engen, that this agenda item be Forwarded to the Planning & Development Committee, on the agenda for 5/28/2015. The motion carried.

Notes: 5 *The first item on our agenda is an*

6 *ordinance providing for the execution of an*

7 *annexation agreement providing for B-2(S), general*

8 *retail business district and OS-1, special use,*

9 *conservation, open space, and drainage district with*

10 *the owners of record of territory which may be*

11 *annexed to the City of Aurora and which is located at*

12 *33W991 and 34W104 Butterfield Road being vacant land*

13 *in Kane County.*

14 *This is a public hearing.*

15 MS. VACEK: *Can we actually take all four, the*

16 *first four, together.*

17 CHAIRMAN SMILGYS: *Good idea.*

18 MS. VACEK: *Did you want to read them for the*

19 *record or no?*

20 CHAIRMAN SMILGYS: *All right.*

21 *The next one is an ordinance --*

22 *amending ordinance Number 3100 being the Aurora*

23 *Zoning Ordinance and the zoning map attached thereto,*

24 *by rezoning property from R-1, B-3, and B-3(S) to*

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1 *B-2(S), general retail business district and OS-1,*

2 *special use, conservation, open space, and drainage*

3 *district, and establishing a special use planned*

4 development and improving the Pas Plaza plan
5 description for 5.035 acres located at 33W991,
6 34W104, 1387 and 1395 Butterfield Road, and this is
7 also a public hearing.

8 And the next one is a resolution
9 approving a preliminary plan and plat for the
10 property located at 33W991, 34W104, 1387 and 1395
11 Butterfield Road.

12 And then the fourth one is a
13 resolution approving a final plan for the
14 resubdivision of Lots 3 and 4 of Unit No. 1, Prime
15 Business Park subdivision -- wait, that's not it.

16 MS. VACEK: I'm sorry. It's the first three.

17 CHAIRMAN SMILGYS: Wait. That's not the
18 right.

19 MS. VACEK: I apologize.

20 COMMISSIONER DIVINE: Do them all.

21 CHAIRMAN SMILGYS: I will take that one too,
22 but we will just do the first three then.

23 MS. VACEK: The petitions that are before you
24 tonight is the annexation agreement, the rezoning in

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1 special use, and the preliminary plan and plat which
2 are all being reviewed and approved concurrently
3 under separate actions. This will then meet up with
4 the annexation at Planning and Development Committee.

5 The subject property is a total of
6 approximately five acres, and it is located at the
7 southwest corner of Butterfield Road and Farnsworth

8 Avenue. If -- just to kind of get your bearings,
9 that is just south of where the Walmart development
10 is.

11 The property consists of several
12 parcels. Three of which are unincorporated. One is
13 zoned B-3, and the other portion is comprised at the
14 existing gas station right at the corner which is
15 zoned B-3 with a special use.

16 The annexation agreement and
17 annexation are being requested for that portion of
18 the property that is unincorporated. That consists
19 of 1.81 acres at 33 West 991 and 34 West 104
20 Butterfield Road.

21 The annexation agreement will allow
22 for the B-2 and the OS-1 zoning with a special use
23 planned development. However, these properties will
24 be annexed into the city initially under the R-1

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1 zoning. The subject properties will then -- the
2 entire five acres will then be rezoned from R-1, B-3,
3 B-3(S) to B-2(S), general business district and OS-1,
4 conservation, open space, and drainage district with
5 a special use to create a cohesive commercial
6 development.

7 The preliminary plan really consists
8 of subdividing the property into five lots. Lot 1
9 will consist of the gas station. Lot 2 will consist
10 of -- well, Lots 2, 3, and 5 will be developed with
11 the three retail buildings. All of which will be

12 zoned B-2.

13 The three retail buildings are
14 proposed to have a total of 125 parking spaces and
15 additionally 12 parking spaces will be constructed in
16 the rear of the existing gas station building. A
17 typical 8-foot 50-square foot monument sign is being
18 proposed for each retail lot.

19 And the plan description does allow
20 for two setback variances. The front yard along
21 Butterfield and Farnsworth which would be reduced
22 from 30 to 25 feet, and the rear yard would be
23 reduced from 8 feet to .4 feet along the stormwater
24 detention facility lot.

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1 The plan description -- I'm sorry.
2 Besides that, there is one additional access point
3 that they are looking to have on this property along
4 Butterfield Road. All of the accesses will be
5 right-in, right-out because there is barriers on both
6 Farnsworth and Butterfield. Stormwater detention is
7 being provided on Lot 4 of the development which then
8 will be zoned to OS-1.

9 I think that's it in a nutshell. I
10 will hand it over to the petitioner. He can kind of
11 go through what the retail buildings are and what
12 will be in there.

13 CHAIRMAN SMILGYS: Would the petitioner come
14 forward and be sworn in, please.

15 (Witness sworn.)

16 MR. SOLTIS: Okay. Good evening, everybody.

17 CHAIRMAN SMILGYS: If you would state your
18 name and address for the record, please.

19 MR. SOLTIS: Sure. My name is Dan Soltis,
20 381 East St. Charles Road, Carol Stream, Illinois,
21 and I am with CIMA Developers. I am here
22 representing ownership, Angel Associates and the
23 Pride Stores.

24 The Pride Stores you may be familiar

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1 with, the Pride of Aurora, the BP, which is adjacent
2 to which Tracey just alluded to, Pride of Geneva,
3 Pride of St. Charles. We are in Carol Stream. We
4 are in Villa Park. We are throughout Kane County and
5 the greater Chicagoland area. We also operate car
6 washes, and we own some retail centers as well.

7 We purchased or Angel Associates
8 purchased the BP about three years ago. And if some
9 of you may recall what that site looked like three
10 years ago, we are proud of what we have done there.

11 We improved the exterior with new brick and
12 decorative stone. We improved the entire interior
13 with flooring, new gondolas, new LED lighting.

14 We provided -- or we added our Urban
15 Counter Restaurant. That's our proprietary
16 restaurant offer, if you have eaten there. We are
17 real proud of that. Sales are improving. We just
18 opened last year there.

19 So we are real proud of what we have

20 done there. We have put in new pumps, new canopy
21 lighting, new asphalt throughout the parking lot.
22 So what we are proposing today on
23 the adjacent parcel is a complement to what we, you
24 know, have done at our current BP location. We think

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1 what we have laid out or we are confident what we
2 have laid out is going to add to the traffic flow.
3 And it's going to be a win-win for everybody there.
4 So with that, I can open up for
5 questions. I do have -- well, we have the site plan
6 here, but I did have the annexation plats and
7 everything else if we needed to take a look at that
8 but regarding -- well, here, let me just kind of go
9 into -- on the 1,800 square foot -- the 1,900 square
10 foot QSR Building south of the BP location fronting
11 Farnsworth, we have a lease with Jimmy John's already
12 aligned.
13 So we -- per the lease, we were
14 hoping to deliver that to them mid year 2015. So we
15 are a little behind schedule, but we hope to play
16 some catch up there, but they are all excited. They
17 have called me probably once a month for the last,
18 you know, eight months since we have been working on
19 the plan. So they are excited to start over there.
20 On the 10,000 square foot retail
21 building, on the east end cap, we do have a
22 drive-through there as well that we are showing. We
23 have been talking to Burger King. They haven't

24 committed anything, but we have been talking to a lot

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1 of major brand restaurant uses as well, but nothing
2 has been confirmed.

3 We have a lot of other tenants,
4 current tenants, that we have that we are talking to
5 that are interested. I think they want to see the --
6 I think they want to see the buildings. They want to
7 see how everything is going to come together, but we
8 are confident we are going to be able to fill those
9 spots. So we anticipate maybe three or four spaces
10 in the 10,000 square foot retail building.

11 On the far west building there, we
12 were talking to an auto parts store originally. We
13 haven't confirmed with them, but we basically laid
14 out the footprint that we were working with at the
15 time.

16 On the access points, we are
17 proposing to close down three of the curb cuts along
18 Butterfield with the access points between the
19 7,400 square foot building and the 10,000 square foot
20 building. Now, there was a staff request to move
21 that -- the one between those two buildings to the
22 far west curb cut to line up there. I will have to
23 talk to ownership about that, but I don't see any
24 major concerns with that if that was a condition.

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1 Currently where the QSR Building is
2 south of the BP, that is -- right now that is
3 detention. So our plan is to move all of the
4 detention for the entire center to the new stormwater
5 detention that's planned, and our engineers and all
6 of our construction folks are anxious to get rolling
7 on that as well.

8 CHAIRMAN SMILGYS: Are there questions?

9 COMMISSIONER COLE: I have a question.

10 Actually you just answered one. I have to make a
11 comment. I was out there today, and the gas station
12 on the corner looks very, very nice.

13 MR. SOLTIS: Thank you.

14 COMMISSIONER COLE: And my question was about
15 the detention area, and you are going to fill in the
16 old one and make the new one?

17 MR. SOLTIS: Correct.

18 COMMISSIONER COLE: And my next question is
19 regard to traffic flow through here. On the south
20 side of the current gas station, there is a car wash.

21 MR. SOLTIS: Correct.

22 COMMISSIONER COLE: And when you pull out of
23 the car wash -- there was two people there out
24 shining up their cars very nicely in the rain this

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1 afternoon, but how is traffic going to flow to that
2 drive-through restaurant which is going to be on the
3 side where the current detention area is?

4 I guess you will have to come around
5 on this side because we can't see.
6 MR. SOLTIS: Sure.
7 COMMISSIONER COLE: I don't know -- and then
8 they won't be able to hear you.
9 MR. SOLTIS: Okay. So the access --
10 CHAIRMAN SMILGYS: You have to use the mic.
11 MR. SOLTIS: Okay. So the exit to the car
12 wash is right here that Tracey alluded to.
13 You said they were over -- they were
14 along here?
15 COMMISSIONER COLE: Right.
16 MR. SOLTIS: Here?
17 COMMISSIONER COLE: Yes.
18 MR. SOLTIS: Right. So basically they will
19 have plenty of space in this area to be able to pull
20 out, but the flow is going to be through here.
21 So we feel that there will be plenty
22 of -- you know, we will have -- I believe we will
23 have a sign here, but we looked at this and we just
24 didn't see an issue with any of the cross access

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1 there. We felt there was plenty of room.
2 COMMISSIONER COLE: And the city doesn't have
3 a problem with it?
4 MS. VACEK: I'm trying to get up the plan.
5 MR. SIEBEN: I think the answer is no, but I
6 don't have it in front of me.
7 We are having technical

8 difficulties. This has been reviewed, and we did not
9 have any issues, but we can take another look at it.

10 MS. VACEK: As you can see, actually it's
11 going to the existing setback along Farnsworth. The
12 this is an existing condition -- this will be bumped
13 out to the existing condition. We feel that there is
14 enough room in there that they will be able to get
15 down there and everything.

16 COMMISSIONER COLE: And that will be one way
17 going that way?

18 MS. VACEK: It will be two ways because that's
19 the only access into that area.

20 COMMISSIONER COLE: Okay.

21 CHAIRMAN SMILGYS: Are there any other
22 questions of the petitioner right now?

23 (No response.)

24 CHAIRMAN SMILGYS: All right. Thank you.

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1 There may be more questions later. We will ask you
2 to come back.

3 This is a public hearing. If you
4 have questions or comments about this -- these cases,
5 any of these cases, if you would stand at your seat
6 and be sworn in. Then you can come up to the
7 microphone and speak.

8 (Witness sworn.)

9 MR. SIEBEN: If you want to come up. If you
10 state your name and address -- or we have your name.
11 We don't have your address, if you can state it for

12 the record.

13 MR. HARPER: My name is Kurt Harper. I live
14 on Downen Road which is the access off of
15 Butterfield. I have lived there for over 30 years.

16 MR. SIEBEN: Could you give the exact address,
17 please. I'm sorry.

18 MR. SOLTIS: I'm sorry. 4 South 009 Downen
19 Road, Batavia. My tax bill has been changed. Now it
20 says Aurora. So I'm not sure where I live. I
21 haven't moved yet.

22 My concerns -- I have been contacted
23 by CIMA at least a dozen times. The gentleman that I
24 was talking to I believe his name is Phillip Brasse

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1 is retired. The last letter he sent me, he told me
2 that I'm using someone else's easement which we have
3 all used -- there were seven other houses there, and
4 we have used it for like I say 30 years. I
5 maintained it. No one has ever done anything, no
6 gravel, no anything.

7 He was going to send me some papers
8 and have me sign them. Well, I refused to do that.
9 I didn't know what was involved in it. I don't want
10 to sign anything, but then I went to the City of
11 Aurora, the planning I believe building off of Lake
12 Street here or New York Street, talked to them. They
13 said I couldn't do anything. I couldn't build over
14 on my actual easement which is all grass, told me not
15 to do anything. I didn't own the property, don't do

16 anything.
17 So that my main concern is that
18 where my easement is, if I'm going to be able to go
19 straight through to get back out on to Butterfield or
20 do I have to go jig jogging through this whole
21 industrial park that they are building. What do I
22 have to do?
23 And like you were talking about,
24 your concerns about that car wash, you hit it right

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1 on the head. It's a bottleneck right now trying to
2 get out of that gas station with that one little
3 bitty entrance that's there. And it's on a hill, and
4 it's terrible. It's going to be nothing but worse.
5 Like I mean, my wife has a nurse
6 come once a week, and -- I mean, from the West
7 Suburban Bank, that's right next to me. That was the
8 last project that was done, my nurse had to walk from
9 Walmart. They wouldn't let -- they cut a tree down
10 across the road and left for two days. And I'm not
11 talking about a baby tree, a big tree. I mean, just
12 some of the things that happened.
13 The guy that did the demo there, I
14 know you know him, J & S Construction, the first
15 thing he did was come up with a city employee and
16 told me my garage was 15 foot on someone else's
17 property and they were going to tear it down. I go,
18 go for it. I need a new garage. I hope you do.
19 As it turned out, I'm 5 foot, 6 foot

20 off of the property line, just some of the things
21 that I have put -- that's my concern. I don't think
22 the collateral damage is worth having a strip mall
23 when we have acres across the street. The Suburban
24 Bank still has five empty stores. All they have

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1 there is the bank.
2 I'm not trying to stop progress, but
3 I don't want to be totally pushed out either. I
4 mean, you know, they could have -- if they wanted to
5 buy it, they could have bought it. Their offer was
6 terribly low. I'm retired. I can't go out and get a
7 mortgage loan and build a new house or whatever.

8 So I'm pretty much stuck where I'm
9 at, but I'm hoping you guys can oversee a little
10 better than we did with the West Suburban Bank
11 because that did not work out well at all.

12 That's about all I have to say.
13 Thank you.

14 CHAIRMAN SMILGYS: Thank you. Is there anyone
15 else wishing to testify?

16 (No response.)

17 CHAIRMAN SMILGYS: We will take the rest of
18 whatever you are telling us.

19 MS. VACEK: Well, I can maybe just touch on
20 the access real fast. They are actually moving the
21 access to where his easement is. So he will still
22 have access along that access -- along that one side
23 on the far west of it.

24 Dan did mention just a bit ago that

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1 there was a condition that that access actually be
2 the access that goes out to that Butterfield. The
3 one access that is shown here will be moved to the
4 far west access. So he will still have direct access
5 to Butterfield.

6 Okay. I have a whole bunch of these
7 to read. All right. Staff would recommend approval
8 of an ordinance providing for the execution of the
9 annexation agreement providing for B-2(S), general
10 retail business district, and OS -- I'm sorry --
11 OS-1(S), conservation, open space, and drainage
12 district with the owners of record of the territory
13 which may be annexed to the city and which is located
14 at 33 West 991 and 34 West 104 Butterfield Road being
15 vacant land in Kane County, Aurora, Illinois.

8 CHAIRMAN SMILGYS: The first item that we will
9 vote on will be the annexation agreement providing
10 for the B-2(S), general retail, and OS-1.

11 COMMISSIONER TRUAX: Move for approval.

12 COMMISSIONER ENGEN: Second.

13 CHAIRMAN SMILGYS: Moved and seconded.

14 Would you call the roll, please.

15 MS. JACKSON: Mrs. Anderson?

16 COMMISSIONER ANDERSON: Yes.

17 MS. JACKSON: Mr. Bergeron?

18 COMMISSIONER BERGERON: Yes.

19 MS. JACKSON: Mr. Cameron?

- 20 COMMISSIONER CAMERON: Yes.
- 21 MS. JACKSON: Mrs. Cole?
- 22 COMMISSIONER COLE: Yes.
- 23 MS. JACKSON: Mr. Divine?
- 24 COMMISSIONER DIVINE: Yes.

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- 1 MS. JACKSON: Mr. Engen?
 - 2 COMMISSIONER ENGEN: Yes.
 - 3 MS. JACKSON: Mrs. Hoffman?
 - 4 COMMISSIONER HOFFMAN: Yes.
 - 5 MS. JACKSON: Mr. Reynolds?
 - 6 COMMISSIONER REYNOLDS: Yes.
 - 7 MS. JACKSON: Mrs. Truax?
 - 8 COMMISSIONER TRUAX: Yes.
 - 9 CHAIRMAN SMILGYS: Motion carries.
 - 3 CHAIRMAN SMIGLYS: And this will next be heard when, Tracey?
 - 4 MS. VACEK: This is going to our Planning and
 - 5 Development Committee next week which will be
 - 6 May 28th here at City Hall, fifth floor conference
 - 7 room at 4:00 o'clock.
 - 8 CHAIRMAN SMILGYS: Thank you.
Aye: 9 At Large Bergeron, At Large Cameron, At Large Cole, Fox Valley Park
District Representative Hoffman, Aurora Twnshp Representative
Reynolds, At Large Anderson, At Large Divine, At Large Engen and At
Large Truax
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