



Legislation Text

File #: 24-0517, **Version:** 1

TO: Mayor Richard C. Irvin

FROM: Tracey M. Vacek, Senior Planner

DATE: July 3, 2024

SUBJECT:

An Ordinance Annexing property generally bounded by the Kane County Forest Preserve to the east, ComEd utility right-of-way to the west, Progressive Baptist Church to the north, and the BNSF Railway to the south, in Sugar Grove Township, Kane County, Illinois to the City of Aurora pursuant to 65 ILCS 5/7-1-13

PURPOSE:

Forcible annexation of properties contiguous to the City of Aurora.

BACKGROUND:

In the spring of 2024, the Kane County notified the City that it had received a special use application for a proposed solar farm for the property located west of Barnes Rd and designated estate residential type development as indicated in the Countryside Vision Plan upon its eventual annexation into the City. Because the City had contemplated this property being used for residential purposes, rather than a solar energy facility and given its proximity to the City's limits, the City Council voted 11-1 to notify the County of its objection to the proposal.

The County's Zoning Board of Appeals and County Board's County Development Committees, constrained by the provisions of the Counties Code, nevertheless recommended to the County Board that it approve the proposed special use. It is important to note that the Counties Code, which is analogous to the Illinois Municipal Code severely limits a County Board's discretion to deny petitions for solar energy facilities. As Kane County does not possess home rule authority, it cannot act beyond those limitations. The County Board is scheduled to act on the special use application at its meeting of July 9, 2024.

DISCUSSION:

Just prior to the County Development Committee's vote to recommend approval of the special use, staff considered whether it would be possible to annex the property prior the installation of the solar farm. Under Section 7-1-13 of the Illinois Municipal Code, annexation of 60 acres is possible when it is wholly bounded by one or more municipalities and a Forest Preserve District. Thus, upon annexation of the BNSF ROW discussed below, the property in question is wholly bounded by the City of Aurora and the Kane County Forest Preserve District.

The City is working with the BNSF to annex railroad property which is located to the south of the solar farm. This annexation is being approve simultaneously under separate action. If this

annexation is approved, the City can proceed to annex the properties to the north, including the proposed solar farm, a religious institution and a vacant parcel just north of the BNSF railroad since these properties will be wholly bounded by one or more municipalities and a Forest Preserve District.

IMPACT STATMENT:

If the City Council approves the annexation described above, it will prevent the property from being used for a solar farm. Though the City actively supports the expansion and use of alternative forms of energy, including, specifically, solar, the proposed location is inconsistent with the City's long-term plans for the area.

RECOMMENDATIONS:

Staff recommends APPROVAL of the Ordinance Annexing property generally bounded by the Kane County Forest Preserve to the east, ComEd utility right-of-way to the west, Progressive Baptist Church to the north, and the BNSF Railway to the south, in Sugar Grove Township, Kane County, Illinois, to the City of Aurora pursuant to 65 ILCS 5/7-1-13

ATTACHMENTS:

Exhibit "A" Legal Description
Exhibit "B" Annexation Notification List
Exhibit "C" Plat of Annexation
Map

Legistar Number: 24-0517

cc:

Alderwoman Patty Smith, Chairperson
Alderwoman Shweta Baid, Vice Chairperson
Alderman Michael B. Saville
Alderman Bill Donnell
Alderman Carl Franco



CITY OF AURORA, ILLINOIS

ORDINANCE NO. _____
DATE OF PASSAGE _____

An Ordinance Annexing property generally bounded by the Kane County Forest Preserve to the east, ComEd utility right-of-way to the west, Progressive Baptist Church to the north, and the BNSF Railway to the south, in Sugar Grove Township, Kane County, Illinois, to the City of Aurora pursuant to 65 ILCS 5/7-1-13

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, pursuant to Section 7-1-13 of the Illinois Municipal Code (65 ILCS 5/7-1-13), the City of Aurora has the authority to involuntarily annex property which is less than 60 acres in size and that is wholly bounded by one or more municipalities and a Forest Preserve District; and

WHEREAS, the property legally described in Exhibit "A" (the "Property"), is unincorporated, less than 60 acres in size, contiguous to the City of Aurora, and is wholly bounded by the City of Aurora and the Kane County Forest Preserve District; and

WHEREAS, pursuant to Section 7-1-13 of the Illinois Municipal Code (65 ILCS 5/7-1-13), notice of the contemplated annexation of the Property legally described in Exhibit "A" was published in the Beacon News, a newspaper of general circulation in the territory hereinafter described, on July 12, 2024; said date being at least ten (10) days prior to passage of this Ordinance; and

WHEREAS, also pursuant to Section 7-1-13 of the Illinois Municipal Code (65 ILCS 5/7-1-13), notice of the contemplated annexation of the Property legally described in Exhibit "A" was served on each taxpayer of record of the Property in the manner provided by law on July 8, 2024, said date being not less than fifteen (15) days prior to the passage of this Ordinance; and

WHEREAS, due statutory notice has been given to those entities listed in the affidavit and Annexation Notification List attached hereto as Exhibit "B", including the County Clerk (as election authority), the supervisor, clerk and all respective members of township board and the highway commissioner in any affected township, and the trustees of any fire protection district in which the Subject Property is located.

WHEREAS, it is in the best interest of the City of Aurora that said territory be annexed to and become part of the City

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

Section One: That the City Council of the City of Aurora, Illinois finds as fact all of the preamble recitals of this Ordinance.

Section Two: That this Ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval.

Section Three: That all Ordinances or part of Ordinances in conflict herewith are hereby repealed insofar as any conflict exists.

Section Four: That any section, phrase or paragraph of this Ordinance that is construed to be invalid, void or unconstitutional shall not affect the remaining sections, phrases or paragraphs of this Ordinance which shall remain in full force and effect.

Section Five: That the real estate described on Exhibit "A", attached hereto and incorporated herein

by reference as if fully set forth, be, and the same is hereby annexed to the City of Aurora, Illinois, , all in conformance with the plat and map of annexation of said territory prepared by a registered land surveyor of the State of Illinois, attached hereto as Exhibit "C" and made a part hereof.

Section Six: That the property to the far side of any adjacent public right-of-way within said annexed area, and the same is, hereby also annexed to the City of Aurora, Illinois.

Section Seven: That the corporate limits of the City of Aurora, and the same are, hereby extended to include the territory hereby annexed to the City of Aurora, Illinois.

Section Eight: That the real estate legally described on said Exhibit "A" is hereby placed in the R-1 One-Family Dwelling District zoning classification of Chapter 49 of the Code of Ordinances, City of Aurora, being the Zoning Ordinance and the Zoning Map attached thereto, pursuant to Section 49-103.2(h) of said Ordinance.

Section Nine: That the City Clerk of the City of Aurora is hereby authorized and directed to file with the applicable County Recorder of Deeds a certified copy of the Ordinance, together with an accurate plat of the territory annexed, which plat shall be certified as to its correctness and attached hereto as Exhibit "C"