
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: WALTER MAGDZIARZ, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PUBLIC HEARING: ANNEXATION AGREEMENT (10 HEATON COURT, PRESTBURY)
AGENDA: APRIL 19, 2022 VILLAGE BOARD MEETING
DATE: APRIL 15, 2022

ISSUE

Shall the Village Board hold a public hearing to consider an Annexation Agreement for the vacant single-family lot located at 10 Heaton Court in Prestbury.

DISCUSSION

The applicant and owner, Michael Oschsenschlager, is requesting adoption of an annexation agreement to annex the subject property which is located in Prestbury. The applicant desires to construct a single-family home on the property.

The Village provides sanitary and water service to lots in Prestbury and it has been the Village's policy and practice to enter into an annexation agreement with property owners in Prestbury who construct residences and connect to the water system since the Village took over the water system.

The Annexation Agreement recognizes the property will be used and developed for single-family residential purposes and will be classified in the R-2 Residential District upon annexation. No variations or departures from the Village Code have been requested or provided in the Agreement. The Owner may begin construction of the residence prior to annexation of the property under the terms of the Agreement.

The Annexation Agreement recognizes that the subject property is not contiguous to the corporate limits and may be annexed when contiguity is established. Until such time, the property owner will be subject to the building and zoning requirements of Kane County and will be entitled to connect to the Village's water and sanitary sewer systems in Prestbury per the Agreement.

The last Annexation Agreement under similar circumstances in Prestbury was in 2020. Presently, there are 19 duplex buildings in the Townes of Prestbury on Hanks Road and 20 single-family residences in Prestbury that are annexed to Sugar Grove. In addition, there are 12 homes scattered about Prestbury that have annexation agreements similar to the one for 10 Heaton Court and are not annexed to the Village.

The purpose of the public hearing is to accept public comment concerning the annexation agreement.

COSTS

There are no costs to the Village for the requested action.

ATTACHMENTS

1. Public hearing notice
2. Location map
3. Draft Annexation Agreement

RECOMMENDATION

That the public hearing be opened to accept any public comment on the proposed annexation agreement and then closed.

NOTICE OF PUBLIC HEARING

Notice is hereby given to all persons that the Sugar Grove Village Board will hold a public hearing on April 19, 2021 at 6:00 p.m. at the Village Hall Boardroom, 10 S. Municipal Drive, Sugar Grove, Illinois, for the purpose of considering an Annexation Agreement for a tract of land in the Prestbury Subdivision having the following property PIN: 14-10-331-015, and commonly known as 10 Heaton Court.

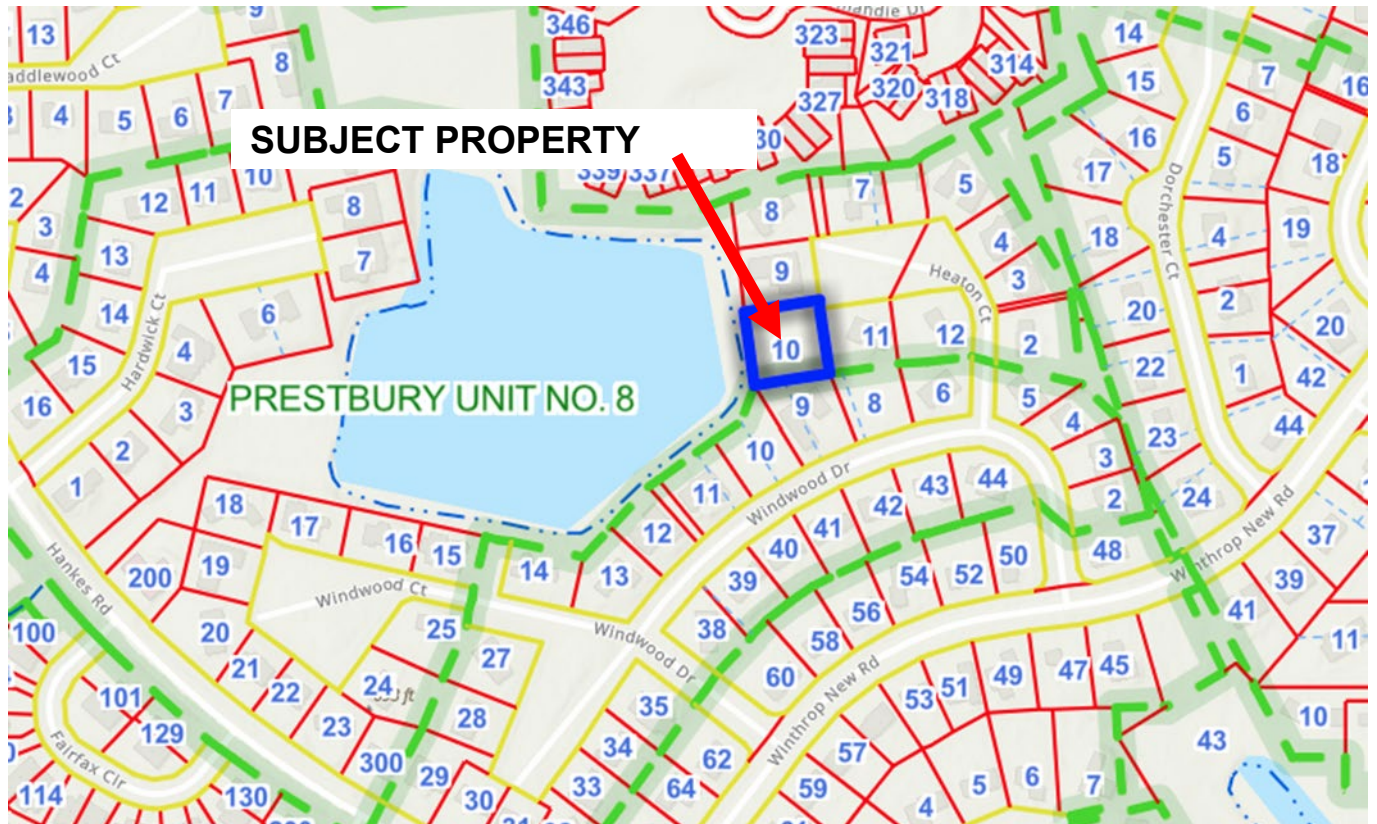
All interested persons are invited to attend the public hearing and will be given an opportunity to be heard. Be advised, the proposed annexation agreement may be changed, altered, modified, amended, or redrafted in part or in its entirety after the public hearing. You are further advised the Public Hearing may be adjourned to a date(s) certain without further notice. A copy of the Annexation Agreement is available for inspection at the Village Clerk's office or the Community Development Department during normal business hours, or at www.sugargroveil.gov.

If you have questions regarding this petition, you may direct them to the Community Development Department, 601 Heartland Drive, Sugar Grove, Illinois 60554. Normal business hours are 8:00 a.m. to 4:30 p.m. Monday through Friday.

Alison Murphy
Village Clerk

LOCATION MAP

10 Heaton Court, Prestbury



STATE OF ILLINOIS)
) S.S.
COUNTY OF KANE)

Prepared by:

Laura M. Julien, Village Attorney
Mickey, Wilson, Weiler, Renzi,
Lenert & Julien, P.C.
140 S. Municipal Drive
Sugar Grove, IL 60554

Return to:

Village Clerk
Village of Sugar Grove
10 S. Municipal Drive
Sugar Grove, IL 60554

ANNEXATION AGREEMENT

This Annexation Agreement (“Agreement”) is made and entered into this ____ day of April, 2022, by and between the VILLAGE OF SUGAR GROVE, an Illinois municipal corporation (“Village”) and Michael Oschsenschlager (“Owner”); as each may be individually referred to as “Party” and collectively as “Parties.”

WITNESSETH

WHEREAS, VILLAGE and OWNER acknowledge and agree that the Property, as hereinafter defined, is not presently contiguous to other property located in the Village, and therefore is not capable or annexation until such time as contiguity occurs. OWNER has executed simultaneously a Petition for Annexation which will be acted upon by the VILLAGE when the Property is contiguous with other property located within the VILLAGE, or in the alternative, within 30 days of the property becoming contiguous to the VILLAGE, OWNER shall execute and deliver a petition for Annexation; and,

WHEREAS, OWNER owns a fee simple interest to the Property, commonly known as 10 Heaton Court, Prestbury, and legally described in **Exhibit A**, attached hereto and incorporated as though fully set forth herein, consisting of approximately 16,174 square feet (“Property”); and,

WHEREAS, the Property is currently situated in the unincorporated area of Kane County, which may become contiguous to the incorporated territory of the Village; and,

WHEREAS, OWNER has agreed to annex and develop the Property for residential purposes in the VILLAGE in accordance with the terms of this Agreement; and,

WHEREAS, it is the desire of the VILLAGE to annex the Property and facilitate its development pursuant to the terms and conditions of this Agreement and the ordinances of the VILLAGE; and,

WHEREAS, OWNER has, or will perform and execute all acts required by law to effectuate such annexation; and,

WHEREAS, the Parties agree to zone the Property pursuant to the terms of this Agreement; and,

WHEREAS, all notices required by law relating to the annexation of the Property to the VILLAGE have been given to the persons or entities entitled to such notice pursuant to the applicable provisions of the Illinois Compiled Statutes; and,

WHEREAS, the Corporate Authorities of the VILLAGE have duly affixed the time and place for a public hearing on this Agreement and pursuant to legal notice have held such hearing thereon all as required by the provisions of the Illinois Compiled Statutes; and,

WHEREAS, the VILLAGE and OWNER agree that the Property shall be developed for single-family residential use; and,

WHEREAS, in reliance upon the development of the Property in the manner proposed, both OWNER and VILLAGE have executed this Agreement; and,

WHEREAS, it is the desire of VILLAGE and OWNER that the development of the Property may proceed, subject to the ordinances, codes, and regulations of the VILLAGE pertaining to the water and sewer connection, as amended; and,

WHEREAS, in accordance with the powers granted to the VILLAGE by the provisions of 65 ILCS 5/7-1-1 *et seq.*, relating to annexation agreements, VILLAGE and OWNER wish to enter into this binding Agreement with respect to the Property and to provide for various other matters related directly or indirectly to the annexation of the Property as authorized by the provisions of said statutes; and,

WHEREAS, pursuant to due notice and publication in the manner provided by law, the appropriate zoning authorities of the VILLAGE have had such public hearings and have taken all further action required by the provisions of the Illinois Compiled Statutes and the ordinances of the VILLAGE relating to the procedure for the authorization, approval and execution of this Agreement by the VILLAGE.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and conditions herein contained, and by authority of an in accordance with the aforesaid statutes of the State of Illinois, the Parties agree as follows:

I. ANNEXATION.

OWNER has filed (or within 30 days of the Property becoming contiguous with the VILLAGE will file) with the Clerk of the Village a duly executed verified petition pursuant to, and in accordance with, the provisions of 65 ILCS 5/7-1-1 *et seq.* to annex the Property and any adjacent public highways to the VILLAGE subject to the approval of this Agreement.

II. ZONING AND PLANNING.

A. ZONING MAP.

Contemporaneously with the annexation of the Property, the VILLAGE shall adopt an ordinance amending the provisions of the Sugar Grove Zoning Map so as to provide that the Property shall be classified as an R-2 Detached Residential District, in accordance with VILLAGE ordinances.

B. SITE PLAN.

It is the intention of the Parties that the Property shall be developed under the provisions set forth on the Site Plan, attached hereto as **Exhibit B** and incorporated by reference as though fully set forth herein, prepared by Todd Surveying on May 3, 2021.

C. VILLAGE CODES AND ORDINANCES.

The VILLAGE and OWNER agree that in the event the Property is not developed prior to annexation then, except as specifically modified in this Agreement and the attached drawings and exhibits, the Property shall be developed in compliance with all ordinances, codes, and regulations of the VILLAGE in existence or adopted after the date of this Agreement, provided, however, that the application of any such ordinance, regulation or code shall not result in a reduction in the number or residential building lots herein approved for the property, or alter or eliminate any of the ordinance variations provided for herein. Notwithstanding the foregoing, in the event the VILLAGE is required to modify, amend or enact any ordinance or regulation and to apply the same to the Property pursuant to the express and specific mandate of any superior governmental authority, such ordinance or regulation shall apply to the Property and shall be complied with by OWNER.

III. ROADS AND HIGHWAYS

The VILLAGE agrees to allow the Property to be accessed by the existing private roadways.

IV. FEES, DONATIONS AND CONTRIBUTIONS

OWNER shall pay the fees set forth in **Exhibit C** according to the schedule set forth in **Exhibit C**. The PARTIES further acknowledge and agree that the fees listed therein are being donated to the VILLAGE and the method, manner, timing, and distribution by the VILLAGE shall be solely controlled by the VILLAGE. The PARTIES further acknowledge that the intent of this Agreement is that these donations be utilized for projects within the boundaries of the VILLAGE, subject to the discretion of the VILLAGE. Fees may be changed by the VILLAGE provided they are applied uniformly through the VILLAGE.

V. BUILDING AND OCCUPANCY PERMITS

It is recognized that OWNER may obtain building permits and start construction with the authorization of the Kane County Development Department prior to annexation. In this event, OWNER'S contractor will coordinate the inspections and occupancy certificate procedure with Kane County. VILLAGE agrees that it will, at the request of Kane County, complete all inspections and issue a certificate of occupancy for said structure, or will allow Kane County to complete the inspections and issue a certificate of occupancy, which will be recognized as valid by the VILLAGE. If the VILLAGE will complete any of the aforementioned procedures on behalf of Kane County, these will be charged at the Village's established rates.

VI. WATER SUPPLY AND SANITARY SEWER.

Upon receipt of a properly completed application and payment of all applicable connection fees, the VILLAGE shall be obligated to permit connection of the residences and/or buildings contemplated on the Property, as provided in this Agreement, and the facilities for fire protection, to the VILLAGE'S water

supply and sanitary sewer system, and to supply water and sanitary sewer thereto to the same extent as may be supplied to other structures and areas within the VILLAGE. OWNER shall be responsible for the cost of all on-site water and sewer lines on the Property and for all additional hook-on fees and user fees set forth in the VILLAGE'S rules, regulations, and ordinances. All structures constructed on the Property shall be required to use the VILLAGE water supply and sanitary sewer systems to be dedicated and maintained by the VILLAGE.

VII. DISCONNECTION.

OWNER agrees that they shall develop the Property in accordance with the final plat, final engineering, and/or any other plans approved by the VILLAGE in accordance with the terms hereof, and shall not, as OWNER of said Property, petition to disconnect any portion or all of said Property from the VILLAGE.

VIII. GENERAL OBLIGATIONS

A. SUCCESSOR OWNER.

If any or all of the Property is transferred from the OWNER, both the fee obligation and any further development obligations under this Agreement shall transfer and be binding and become the exclusive obligation of any successor OWNER of the Property, or any portion of the Property.

B. RECORDING.

This Agreement shall be recorded in the Office of the Recorder of Deeds, Kane County, Illinois.

C. TERM OF AGREEMENT.

The term of this Agreement shall be for twenty (20) years from the date of execution hereof. All amendments to ordinances, codes, and regulations required pursuant to this Agreement, shall remain in effect during the term of this Agreement.

IX. TIME IS OF THE ESSENCE.

It is understood and agreed by the Parties that time is of the essence in this Agreement, and that all Parties will make every reasonable effort to expedite the subject matter hereof. It is further understood and agreed by the Parties that the successful consummation of this Agreement requires their continued cooperation.

X. BINDING EFFECT AND TERM.

This Agreement shall be binding upon and ensure the benefit of the Parties hereto, their successors and assigns, including, but not limited to, successor owner of record, successor developers, lessees and successor lessees, and upon any successor municipal authority of the VILLAGE and successor municipalities for a period of twenty (20) years from the later of the date of execution hereof and the date of adoption of the ordinances pursuant hereto.

XI. BREACH OF AGREEMENT.

A. REMEDY.

Upon a breach of this Agreement, any of the Parties in any court of competent jurisdiction, by and action proceeding at law or in equity, may exercise any remedy available at law or equity.

B. NOTICE REQUIRED.

Before any failure of any party of this Agreement 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, by certified mail/return receipt requested, the Party alleged to have failed to perform, state the obligation allegedly not performed and the performance demanded.

C. ADDRESSES.

Notice shall be provided at the following addresses:

- | | |
|-------------|--|
| 1. VILLAGE: | Village of Sugar Grove
10 S. Municipal Drive
Sugar Grove, IL 60554 |
| 2. Copy to: | Village Attorney
140 S. Municipal Drive
Sugar Grove, IL 60554 |
| 3. OWNER | Michael Oschsenschlager
12 Hatherly Court
Sugar Grove, IL 60554 |

XII. AGREEMENT TO PREVAIL OVER ORDINANCES.

In the event of any conflict between this Agreement and any ordinances of the VILLAGE in force at the time of execution of this Agreement or enacted during the pendency of this Agreement, the provisions of this Agreement shall prevail to the extent of any such conflict or inconsistency.

XIII. PARTIAL INVALIDITY OF AGREEMENT.

If any provision of this Agreement (except those provisions relating to the requested rezoning of the Property identified herein and the ordinance adopted in connection herewith) or its application to any person, entity, or property is held invalid, such provision shall be deemed to be excised here from and the invalidity thereof shall not affect the application or validity of other terms, conditions, and provisions of this Agreement, and, to that end, any terms, conditions, and provisions of this Agreement are declared to be severable. If for any reason during the terms of this Agreement any approval, or permission granted hereunder regarding plans or plats of subdivision or zoning is declared invalid, the VILLAGE agrees to take whatever action is necessary to reconfirm such plans, plat approvals, or zoning ordinances effectuating the zoning, variations, and plat approvals proposed herein.

XIV. ARMS LENGTH NEGOTIATION.

This Agreement contains all the terms and conditions agreed upon by the Parties hereto and no other prior agreement regarding the subject matter hereof shall be deemed to exist to bind the Parties. The Parties acknowledge and agree that the terms and conditions of this Agreement, including the payment of any fees, have been reached through a process of good faith negotiation, both by principals and through

counsel, and represent terms and conditions that are deemed by the Parties to be fair, reasonable, acceptable, and contractually binding upon each of them.

IN WITNESS WHEREOF, the Parties have executed this Annexation Agreement the day and year first above written.

[Signatures to Follow]

VILLAGE: THE VILLAGE OF SUGAR GROVE

By: _____
Jennifer Konen
Its: Village President

STATE OF ILLINOIS)
)
COUNTY OF KANE)

I the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Jennifer Konen and Alison Murphy personally known to me to be the Village President and Village Clerk, respectively, of the Village of Sugar Grove, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Village President and Village Clerk they signed and delivered said instrument and caused the corporate seal of the Village to be affixed thereto, pursuant to authority, given by the Village of Sugar Grove Board of Trustees as the free and voluntary act and deed of said Village for the uses and purposes set forth.

Given under my hand and official seal, this ____ day of _____, 2022.

Notary Public

OWNER: _____

By: _____,

STATE OF ILLINOIS)
)
COUNTY OF KANE)

I the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, personally known to me to be the same person whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered said instrument pursuant to authority, as the free and voluntary act and deed for the uses and purposes set forth.

Given under my hand and official seal, this ____ day of _____, 2022.

Notary Public

LIST OF EXHIBITS

Exhibit A	Legal Description
Exhibit B	Site Plan
Exhibit C	Fee Schedule

EXHIBIT A

Legal Description

LOT 217 IN UNIT NO. 8 OF PRESTBURY, RECORDED ON AUGUST 21,
1978 AS DOCUMENT 1471296, IN THE TOWNSHIP OF SUGAR GROVE,
KANE COUNTY, ILLINOIS

PIN: 14-10-331-015

EXHIBIT B

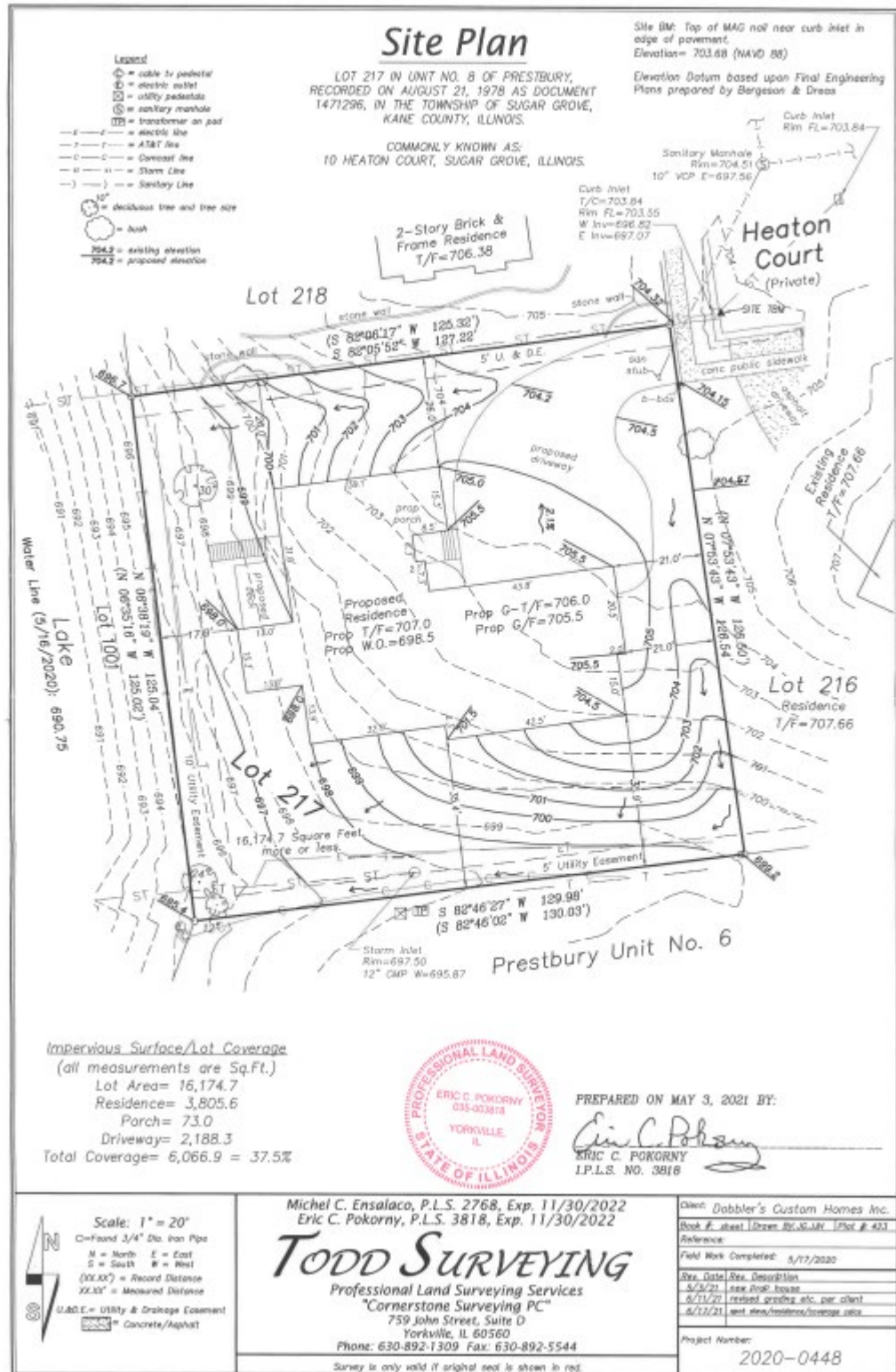


EXHIBIT C

Permit, Impact and Transition Fees, Donations and Contributions

<u>Permit</u>	
Building Permit	\$ 1,115.00
Certificate of Occupancy	\$ 100.00
Plan Review	\$ -
Engineering Review	\$ 460.00
Water Meter	\$ 495.00
Post CO Fees	\$ -
Total Permit	\$ 2,170.00

<u>Impact</u>	
Village HF ERF & CIP Debt to Village	\$ -
Village Road Impact	\$ 6,250.00
Village Capital Improvement	\$ 5,037.64
Village Sewer Connection	\$ 68.33
Village Water Connection	\$ 2,625.18
Village Life Safety - Police	\$ -
Village Life Safety - Streets	\$ -
	\$ 13,981.15

School District Land Cash	\$ 515.90
School District Impact	\$ 515.90
	\$ 1,031.79

Park District Land Cash	\$ 523.14
Park District Impact	\$ -
	\$ 523.14

Fire District Impact	\$ 109.97
	\$ 109.97

Library District Impact	\$ 33.94
	\$ 33.94

Total Impact	\$ 15,680.00
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<u>Transition</u>	
Village	\$ -
School District	\$ -
Park District	\$ -
Fire District	\$ -
Library District	\$ -
Township	\$ -
Total Transition	\$ -

Total Collected by Village	\$ 17,850.00
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