

## ORDINANCE 11-05

AN ORDINANCE GRANTING AN EXTENSION FOR THE ESTABLISHMENT OF SPECIAL USES, FINAL PLAN APPROVAL, FILING OF THE FINAL PLAT OF SUBDIVISION AND APPROPRIATENESS APPROVAL FOR SITE DESIGN, BUILDING ELEVATIONS, SIGNAGE, AND LANDSCAPING FOR THE WALMART SUPERCENTER PUD

WHEREAS, Platt W. Hill, Heidi Hill, Felicite H. Regan, and Spring Hill Mall, L.L.C. are the owners of certain real property consisting of approximately 31.00 acres generally located at the southwest corner of Huntley Road and Elm Avenue, West Dundee, Illinois and legally described in Exhibit A attached hereto and, by this reference, made a part of this Ordinance (the "**Property**"); and

WHEREAS, the Property is zoned B-2 Regional Business District and pursuant to Ordinance No. 08-27 approved on June 16, 2008 issued a special use permit for a Planned Development, a special use permit to allow outdoor garden sales; approval for a preliminary plan of subdivision and approval for the preliminary development plan for a Wal-Mart Supercenter, attached hereto as Exhibit B and, by this reference, made a part of this Ordinance hereof; and

WHEREAS, Ordinance 08-30 approved on June 16, 2008 authorized the approval of the Preliminary Plat of Subdivision for Wal-Mart PUD Subdivision, attached hereto as Exhibit C and, by reference, made a part of this Ordinance hereof; and

WHEREAS, Ordinance 08-39 approved on September 2, 2008 granted approval of the Final Plat of Subdivision for the Wal-Mart PUD; attached hereto as Exhibit D and, by this reference, made a part of this Ordinance hereof; and

WHEREAS, on June 1, 2009 The President and the Board of Trustees of the Village of West Dundee, Kane County, Illinois approved Ordinance 09-12 and granted an extension for the establishment of special uses, final plan approval, and filing of the final plat of subdivision for the Wal-Mart Supercenter PUD; and

WHEREAS, on September 5, 2009 The President and the Board of Trustees of the Village of West Dundee, Kane County, Illinois approved Ordinance 09-23 and granted an extension for Appearance Review Commission granted Appropriateness Approval for site design, building elevations, signage and landscaping and site design; and

WHEREAS, on May 17, 2010 The President and Board of Trustees of the Village of West Dundee, Kane County, Illinois approved Ordinance 10-13 and granted an extension for the establishment of special uses, final plan approvals, filing of the final plat of subdivision and appropriateness approvals for site design, building elevations, signage and landscaping for the Wal-Mart Supercenter PUD; and

WHEREAS, the Village of West Dundee, Kane County, Illinois is a home rule municipal corporation as contemplated by Article VII, Section 6 of the Constitution of the

State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village's home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, due to unresolved issues with litigation in the Appellate Court of Illinois, Second District, Case No 09-0902; the special uses were not established, the final plat was not recorded, and a final development plan is not expected to be approved within the twelve month period of the above extensions and whereas a building permit is not expected to be issued and whereas substantial amount of construction will not begin prior to the expiration of the extension.

NOW, THEREFORE, BE IT ORDAINED by the President and the Board of Trustees of the Village of West Dundee, Kane County, Illinois as follows:

Section 1. An extension is hereby granted for establishments of the Special Uses; the approval of the Final Plan and the Filing and Recording of the Final Plat and all Appropriateness Approvals to June 16, 2012.

Section 2. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

Section 3. All ordinances or part of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

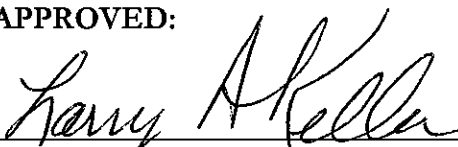
**Ayes:** Trustees Voss, Gillam, Price, Osth, Hanley and Yuscka

**Nays:**

**Abstain:**

**Absent:**

**APPROVED:**

  
\_\_\_\_\_  
President Larry Keller

(SEAL)

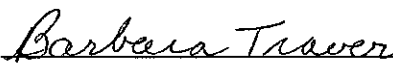
**ATTEST:**   
\_\_\_\_\_  
Village Clerk Barbara Traver

Exhibit A

LEGAL DESCRIPTION

THAT PART OF LOT 2 IN THE RESUBDIVISION OF LOT 1 - HILLS SUBDIVISION UNIT 2, BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED JULY 11, 2003 AS DOCUMENT 2003K114043, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2 FOR A POINT OF BEGINNING; S.00°41'44"W. ALONG THE EAST LINE OF SAID LOT 2, 1098.88 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE S.89°18'15"W. ALONG THE SOUTH LINE OF SAID LOT 2, 587.24 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE N.00°41'45"W. ALONG THE WEST LINE OF SAID LOT 2, 244.95 FEET; THENCE N.30°47'05"W. ALONG THE WEST LINE OF SAID LOT 2, 103.05 FEET; THENCE N.23°59'59"E., 207.95 FEET; THENCE N.44°3'57"E., 255.00 FEET; THENCE N.21°16'25"E., 105.35 FEET; THENCE N.01°24'43"E., 311.32 FEET TO THE NORTH LINE OF SAID LOT 2; THENCE S.88°35'17"E. ALONG THE NORTH LINE OF SAID LOT 2, 346.95 FEET TO THE POINT OF BEGINNING, ALL IN KANE COUNTY, ILLINOIS.

ALSO

LOT 1 IN SPRING HILL WEST, BEING A RESUBDIVISION OF WILLIAM WILBURN HEIR'S SUBDIVISION, AND THE LANDS IN THE EAST HALF OF SECTION 21, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED DECEMBER 10, 1986 AS DOCUMENT 1811460. EXCEPTING THEREFROM THAT PART OF SAID LOT 1 AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1 FOR A POINT OF BEGINNING; THENCE S.00°41'44"W. ALONG THE WEST LINE OF SAID LOT 1, 48.97 FEET THENCE S.88°38'18"E. PARALLEL WITH THE NORTH LINE OF SAID LOT 1, 870.16 FEET: THENCE 53°08'54"E. 30.16 FEET TO THE EAST LINE OF SAID LOT 1; THENCE N.00°59'25"E. ALONG SAID EAST LINE, 22.51 FEET TO THE NORTH EAST CORNER THEREOF; THENCE N.88°38'18"W. ALONG THE NORTH LINE OF SAID LOT 1, 80.00 FEET; THENCE N.84°04'01"W. ALONG THE NORTH LINE OF SAID LOT 1, 150.56 FEET; THENCE N.88°38'18"W. ALONG THE NORTH LINE OF SAID LOT 1, 243.12 FEET; THENCE N.81°32'48"W. ALONG THE NORTH LINE OF SAID LOT 1, 258.98 FEET; THENCE N.88°38'18"W. ALONG THE NORTH LINE OF SAID LOT 1, 194.94 FEET TO THE POINT OF BEGINNING, ALL IN KANE COUNTY, ILLINOIS.

ALSO

THAT PART OF LOT 2 IN SPRING HILL WEST, BEING A RESUBDIVISION OF WILLIAM WILBURN HEIR'S SUBDIVISION, AND THE LANDS IN THE EAST

HALF OF SECTION 21, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED DECEMBER 10, 1986 AS DOCUMENT 1811460, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2 FOR A POINT OF BEGINNING; THENCE N.89°28'27"E. ALONG THE NORTH LINE OF SAID LOT 2, 876.50 FEET TO THE WEST LINE OF ELM ROAD (PRIVATE ROAD); THENCE SOUTHWESTERLY ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 386.00 FEET, SUBTENDING A CHORD BEARING S.38°14'40"W. FOR AN ARC DISTANCE OF 66.10 FEET TO A POINT OF REVERSE CURVE TO THE LEFT; THENCE ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 238.50 FEET, SUBTENDING A CHORD BEARING S.41°45'47"W. FOR AN ARC DISTANCE OF 11.55 FEET TO THE NORTHEAST CORNER OF LOT 4 IN SAID SPRING HILL WEST; THENCE S.89°28'27"W. ALONG THE NORTH LINE OF SAID LOT 4, 54.46 FEET TO A NON-TANGENTIAL CURVE TO THE LEFT HAVING A RADIUS OF 150.00 FEET SUBTENDING A CHORD BEARING N.79°04'45"W. FOR AN ARC DISTANCE OF 56.50 FEET; THENCE S.89°28'27"W., 48.06 FEET TO AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 180.50 FEET SUBTENDING A CHORD BEARING S.71°32'52"W. FOR AN ARC DISTANCE OF 45.54 FEET; THENCE S.75°01'09"W., 42.92 FEET TO AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 480.50 FEET SUBTENDING A CHORD BEARING S.83°12'56"W. FOR AN ARC DISTANCE OF 137.48 FEET; THENCE S.88°35'17"W., 449.52 FEET TO THE WEST LINE OF SAID LOT 2; THENCE N.00°44'41"E. ALONG THE WEST LINE OF SAID LOT 2, 65.68 FEET TO THE POINT OF BEGINNING, CONTAINING 1.3366 ACRES, ALL IN KANE COUNTY, ILLINOIS.

ALSO

THAT PART OF LOT 4 IN SPRING HILL WEST, BEING A RESUBDIVISION OF WILLIAM WILBURN HEIR'S SUBDIVISION, AND THE LANDS IN THE EAST HALF OF SECTION 21, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED DECEMBER 10, 1986 AS DOCUMENT 1811460, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4 FOR A POINT OF BEGINNING; THENCE SOUTHWESTERLY ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 238.50 FEET FOR AN ARC DISTANCE OF 26.81 FEET; THENCE NORTHWESTERLY ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 150.00 FEET SUBTENDING A CHORD BEARING N.60°45'25"W. FOR AN ARC DISTANCE OF 42.72 FEET TO THE NORTH LINE OF SAID LOT 4; THENCE S.89°28'27"E. ALONG SAID NORTH LINE, 54.46 FEET TO THE POINT OF BEGINNING, CONTAINING 516.69 SQUARE FEET, ALL IN KANE COUNTY, ILLINOIS.

**CERTIFICATION OF PUBLICATION**

STATE OF ILLINOIS     )  
  SS.  
COUNTY OF KANE     )

I, Barbara Traver, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of West Dundee, County of Kane and State of Illinois, and as such clerk I am the keeper of the seal, records, files and proceedings of the corporate authorities of said municipality.

I further certify that, as of the date hereof, Ordinance No. 11-05, adopted by the corporate authorities on May 16, 2011, regarding an Ordinance granting an extension for the establishment of special uses, final plan approval, filing of the final plat of subdivision and appropriateness, approval for site design, building elevations, signage, and landscaping for the Walmart Supercenter PUD. The pamphlet form of Ordinance No.11-05 was published, commencing on May 16, 2011, and continuing for at least ten days thereafter.

IN WITNESS WHEREOF, I have hereunto affixed my hand and official seal of the municipality this 16<sup>h</sup> day of May, 2011.

Barbara Traver  
Village Clerk

(SEAL)