

ORDINANCE 19-26

AN ORDINANCE OF THE VILLAGE OF WEST DUNDEE, KANE COUNTY, ILLINOIS
APPROVING AN ANNEXATION AGREEMENT
(LOT 4, COUNTY VIEW HIGHLANDS)

WHEREAS, Marcella Vesely, (the "Owner"), submitted a petition to the Village Clerk of the Village of West Dundee (the "Village") requesting certain property, as hereinafter described (the Subject Property), be annexed to the Village of West Dundee (the "Village"); and

WHEREAS, the Owner has requested that, upon annexation, certain Village ordinances be waived regarding the housing of exotic animals in order to proceed with the annexation; and

WHEREAS, the President and Board of Trustees of the Village have reviewed the petition of annexation and the request to waive the Village's ordinance prohibiting exotic animals to be housed within the Village and found it to be a reasonable request and are prepared to enter into an annexation agreement so stating; and

WHEREAS, it is in the best interest of the Village that said territory be annexed thereto.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the VILLAGE OF WEST DUNDEE, Kane County, Illinois, as follows:

SECTION 1: That the Annexation Agreement by and between the Village of West Dundee and Marcella Vesely covering the territory legally described as:

Lot 4 in County View Highlands Subdivision, First Addition, being a subdivision of part of the Northeast Quarter of Section 19, Township 42 North, Range 8 East of the Third Principal Meridian, and also, all that part of Highland Drive lying between the North and South lines of Lot 4, extended Easterly, in Dundee Township, Kane County, Illinois

is hereby approved and the President and Village Clerk are hereby authorized to execute.

SECTION 2: That the Village Clerk of the Village of West Dundee is further directed to record said Annexation Agreement in the Office of the Recorder of Kane County, Illinois, within 30 days of the effective date of this Ordinance, a certified copy of this Ordinance.

SECTION 3: 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SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5: This Ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form (which publication is hereby authorized) as provided by law.

PASSED by the Board of Trustees of the Village of West Dundee, Kane County, Illinois, and approved by the President of said Village this 4th day of November, 2019.

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AYES: Trustees Price, Hanley, Yuscka, Anderley, Wilbrandt and Kembitzky
NAYS: None
ABSENT: None
ABSTAIN: None

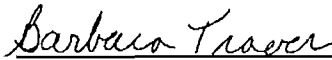
APPROVED:



Christopher Nelson
Village President

(SEAL)

ATTEST:



Barbara Traver
Village Clerk

Unofficial

**EXHIBIT A
ANNEXATION AGREEMENT**

STATE OF ILLINOIS)
) ss.
COUNTY OF KANE)

ANNEXATION AGREEMENT

This Annexation Agreement (hereinafter ("Agreement"), is made and entered into this 4th day of November, 2019, by and between the Village of West Dundee, Kane County, a municipal corporation, hereinafter referred to as the "Village" and Marcella Vesely (collectively, the "Owner").

WITNESSETH:

WHEREAS, the Owner owns fee simple interest to the real property which is legally described in Exhibit A attached hereto, consisting of approximately 0.65 acres, more or less (the "Subject Property"), currently contiguous to the Village and not within the corporate limits of any other municipality; and

WHEREAS, it is the desire of the Owner to provide for the annexation of the Subject Property and to use the Subject Property in accordance with the terms of this Agreement and the ordinances of the Village; and, to provide that when annexed, the Subject Property is to be zoned as Residential pursuant to Title 10, Chapter 4 of the West Dundee Municipal Code; and

WHEREAS, it is the desire of the President and Board of Trustees of the Village (the "Corporate Authorities") to annex the Subject Property and to permit the continuation of its residential use; and

WHEREAS, Owner and Village have or will perform and execute all acts required by law to effectuate the annexation of the Subject Property; and

WHEREAS, the Plat of Annexation attached hereto and incorporated herein by reference as Exhibit B is a true and accurate representation of the Subject Property to be annexed to the Village pursuant to the provisions of this Annexation Agreement; and

WHEREAS, the Owner and the Village agree that upon annexation of the Subject Property to the Village, the Subject Property shall be zoned Residential pursuant to Title 10, Chapter 4 of the West Dundee Municipal Code; and

WHEREAS, the Corporate Authorities of the Village fixed the time for a public hearing on this Agreement and pursuant to legal notice held such hearing thereon all as required by the provisions of the Municipal Code; and

WHEREAS, in accordance with the powers granted to the Village by the provisions of Section 11-15.1-1 *et seq.* of the Municipal Code (65 ILCS 5/11-15.1-1 *et seq.*), relating to Annexation Agreements, the parties hereto wish to enter into a binding Agreement with respect to the annexation, and zoning of the Subject Property and to provide for various other matters

related directly or indirectly to the annexation and use of the Subject Property during the term of this Agreement as authorized by the provisions of said statutes.

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

Section 1. Annexation.

The Owner has filed with the Clerk of the Village a duly and properly executed petition pursuant to, and in accordance with, the provisions of Section 5/7-1-1 *et seq.* of the Municipal Code to annex the Subject Property and any adjacent roadways not previously annexed to the Village. Subject to the provisions of Section 7-1-8 of the Illinois Municipal Code, 65 ILCS 5/7-1-8 (2018), as amended, the Parties respectively agree to do all things necessary or appropriate to cause the Subject Property to be duly and validly annexed to the Village, including adoption of an ordinance by the Village annexing the Subject Property pursuant to this Annexation Agreement.

Section 2. Zoning.

Immediately following the passage of the ordinance annexing the Subject Property, the Corporate Authorities shall direct that such actions as required to rezone the Subject Property to R-1 Single-Family Detached Dwelling District be commenced and thereafter brought before this body for approval.

Section 3. Continued Keeping of Existing Exotic Animals

The Village acknowledges that the Owner possesses exotic animals, specifically peacocks, which reside on the property, notwithstanding any proviso of the Village ordinances currently in effect, these animals shall be allowable under the Village's regulations for the life of the currently existing animals. The Owner shall have the right, without payment of any license or registration fee to maintain these animals on their property, subject to any regulations imposed by Kane County for the keeping of such animals.

Section 4. Utility Services

The Village acknowledges the Owner's ability to connect onto the Village's water and sanitary sewer systems, subject to the issuance of a permit by the Village for said connections. The owner acknowledges that any cost involved regarding said connection, including construction of any individual service lines, connection to the home or to the main, are the sole responsibility of the Owner.

The Owner acknowledges that upon issuance of said permit for water the payment of tap-on fee in the amount of \$5,248 will be charged to the Owner as part of the permit fee process. The Owner shall be responsible for the tap-on charge for sewer in the amount of such charge then in effect.

The Village acknowledges that it will charge the Owner and any future owner of the property standard utility rates and charges consistent with those applicable to any comparable single family home in the corporate limits of the Village.

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Section 5. Defects in Annexation.

In the event that the annexation of the Subject Property is in any way deemed to be defective, the Parties agree that they will do all things legally necessary and appropriate in an attempt to cure any and all defects to cause the Subject Property to be validly annexed to the Village, and any other applicable laws and in compliance with this Annexation Agreement. This Annexation Agreement shall be null and void if the Subject Property is not legally and validly annexed to the Village.

Section 6. Waiver of Fees.

The Village hereby waives the Planning and Zoning application fee for annexation of \$2,400.00. The Owner and Village agree that the Village shall waive any and all other fees with respect to consideration of this Agreement and the annexation of the Subject Property to the Village, including, but not limited to, all impact fees, donations, dedications and the like. Each party shall be responsible for its own out-of-pocket expenses in connection with the negotiation and execution of this Agreement, including, but not limited to, attorney's fees, planning and engineer consultant fees, court reporter fees, publication costs, etc.

Section 7. Binding Effect and Term.

This Annexation Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns including, but not limited to, successor owners of record, successor developers, lessees and successor lessees, and upon any successor municipal authority of the Village and the successor municipalities for a period of ten (10) years from the later of the date of execution hereof and the date of adoption of the ordinances pursuant hereto.

Section 8. Notices and Remedies.

Upon a breach of this Agreement, the parties hereto agree that the venue shall be the Circuit Court of Kane County. It is further understood by the parties hereto that upon breach of this Agreement the non-defaulting party may exercise any remedy available at law or equity.

Before any failure of any part 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.

Notice shall be provided at the following addresses:

To the Village: Village of West Dundee
102 South Second Street
West Dundee, Illinois 60118
Attn: Village Manager

PREPARED BY & MAILED TO :

Chg
With a copy to: Kathleen Field Orr
Kathleen Field Orr & Associates
2024 Hickory Road – Suite 205
Homewood, IL 60430

To the Owner: Marcella Vesely
16N560 Highland Drive
Dundee, IL 60118

With a copy to:

Section 9. 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 of any such conflict or inconsistency.

Section 10. Provisions.

If any provision of this Agreement 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 any 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. The invalidity of any provision of this Annexation Agreement shall not affect any zoning classification for the Subject Property which has been approved by the Village pursuant to the provisions of the Village's ordinances and regulations. Any change to such zoning classification shall take place only in accordance with applicable statutes and ordinances.

Section 11 Amendments and Modifications.

No agreement, amendment, modification, understanding or waiver of or with respect to this Annexation Agreement or any term, provision, covenant or condition hereof, nor any approval or consent given under or with respect to this Annexation Agreement, shall be effective for any purpose unless contained in writing signed by the Party against which such agreement, amendment, modification, understanding, waiver, approval or consent is asserted.

Section 12. Counterparts, Facsimile.

This Annexation Agreement shall be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement. A facsimile copy of this Annexation Agreement and any signatures thereon will be considered for all purposes as originals.

Section 13. Governing Law and Venue.

This Annexation Agreement shall be governed by the laws of the State of Illinois, both as to interpretation and performance, and any legal proceeding of any kind arising from this Annexation Agreement shall be filed in the Circuit Court of Kane County, Illinois.

Section 14. Force Majeure.

Whenever a period of time is provided for in this Annexation Agreement for either the Village or the Owner to do or perform any act or obligation, neither Party shall be liable for any delays or inability to perform due to causes beyond the control of said Party such as war, riot, strike or lockout by or against either Party's own employees or suppliers, unavoidable casualty or damage to personnel, materials or equipment, fire, flood, storm, earthquake, tornado or any act of nature. Any time period shall be extended for only the actual amount of time said Party is so delayed pursuant to this Section.

Section 15. No Personal Liability of Corporate Authorities.

The Parties acknowledge and agree that the individuals who are members of the group constituting the corporate authorities of the Village and the corporate authorities of the Owner are entering into this Annexation Agreement in their corporate capacities as members of such group and shall have no personal liability in their individual capacities.

[SIGNATURE PAGES FOLLOW IMMEDIATELY]


Unofficial

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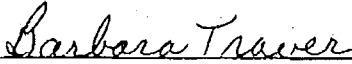
IN WITNESS WHEREOF, the parties hereto have caused this Fourth Amendment to be executed by their duly authorized officers on the above date at West Dundee, Illinois.

VILLAGE:

Village of West Dundee, an Illinois municipal corporation

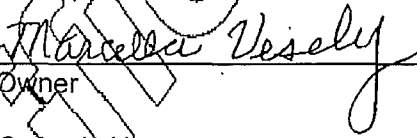
By: 
Village President

Attest:


Village Clerk

OWNERS:

Owner's Name

By: 
Owner
Owner's Name

By: _____
Owner

Unofficial

EXHIBIT A

LEGAL DESCRIPTION

Lot 4 in County View Highlands Subdivision, First Addition, being a subdivision of part of the Northeast Quarter of Section 19, Township 42 North, Range 8 East of the Third Principal Meridian, and also, all that part of Highland Drive lying between the North and South lines of Lot 4, extended Easterly, in Dundee Township, Kane County, Illinois.

Unofficial

EXHIBIT B

PLAT OF ANNEXATION

Unofficial

MAP OF TERRITORY ANNEXED TO THE VILLAGE OF WEST DUNDEE, KANE COUNTY, ILLINOIS

BY ORDINANCE NO. 19-26

PASSED November 4, 2019

OF PROPERTY DESCRIBED AS FOLLOWS:

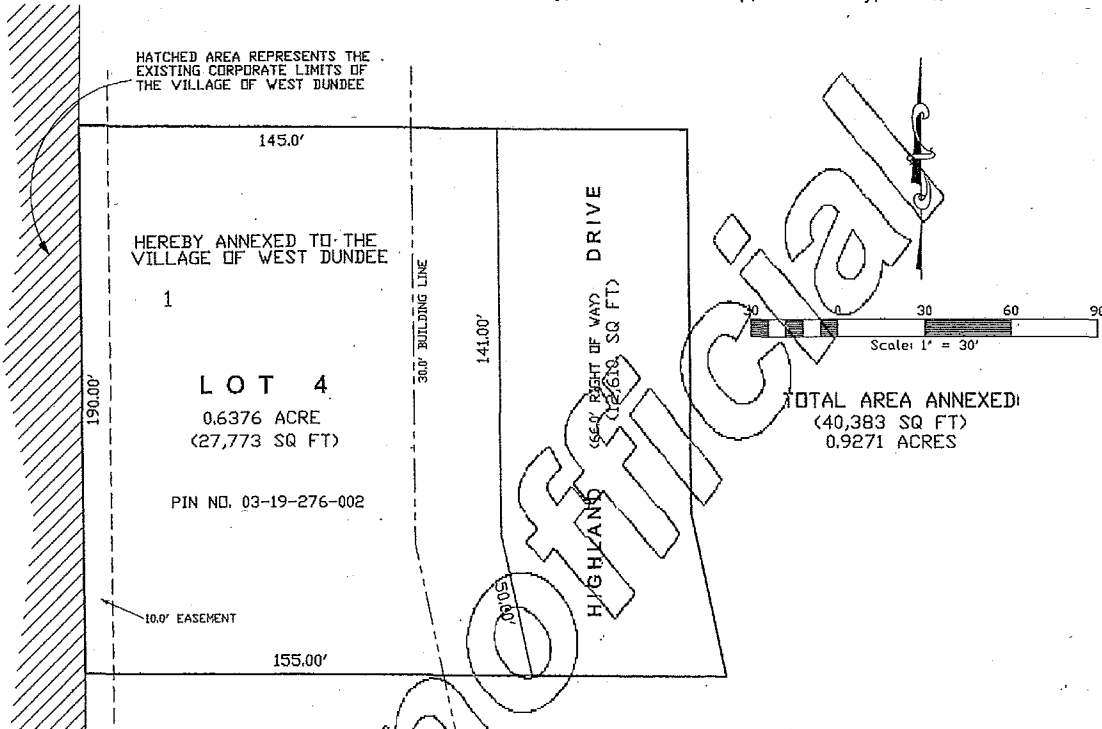
Lot 4 in Country View Highlands Subdivision, First Addition, being a subdivision of part of the Northeast Quarter of Section 19, Township 42 North, Range 8 East of the Third Principal Meridian, and also, all that part of Highland Drive lying between the North and South lines of Lot 4, extended Easterly, in Dundee Township, Kane County, Illinois.



2019K055476

SANDY WEGMAN
RECORDER - KANE COUNTY, IL
RECORDED: 11/15/2019 02:10 PM
REC FEE: \$2.00

PAGES: 12



STATE OF ILLINOIS)
COUNTY OF KANE)ss

I, Charles J. Hill, an Illinois Land Surveyor, do hereby certify that the above is an accurate map of territory annexed to the Village of West Dundee, entitled "An Ordinance Annexing Certain Territory in Dundee Township, Kane County, Illinois, to the Village of West Dundee, Illinois".

Charles J. Hill
Charles J. Hill - I.P.L.S. #2700
My license expires November 30, 2020



STATE OF ILLINOIS)
COUNTY OF KANE)ss

This is to certify that this accurate map of Territory Annexed is identified as that incorporated into and made a part of the Village of West Dundee adopted by the Village Board of West Dundee.

By: *[Signature]* Village President
Attest: *Barbara Traver* Village Clerk

NOTE: THIS PLAT AND THE INFORMATION SHOWN HEREON IS BASED ON INFORMATION, (LEGAL DESCRIPTIONS, OLD SURVEY), FURNISHED BY CLIENT AND INFORMATION SHOWN ON APPLICABLE RECORDED SUBDIVISION PLATS AND TAX MAPS.

THIS PLAT IS BEING RECORDED BY:

Chy
Name: TIMOTHY SCOTT
Address: VILLAGE OF WEST DUNDEE
102 S. 3RD ST.
WEST DUNDEE, IL 60118

JOB NO. C 60.078 ANNEX

Alan J. Coulson, P.C. 12
PROFESSIONAL LAND SURVEYORS
645 S. 8th St., (Rte. 31) West Dundee, IL 60118
Phone: (847)-426-2911 Fax: (847)-426-8074
E-Mail: SIRVAYR@ALANJCOULSON.COM