

ORDINANCE NO. F-0758**AN ORDINANCE AUTHORIZING THE SIGNING OF AN
ANNEXATION AGREEMENT -
ON639 DARLING STREET/MARTINEZ**

WHEREAS, a written petition has been filed with the City Clerk of Wheaton, Illinois, requesting the annexation to the City of Wheaton, Illinois ("City"), of certain territory legally described in Exhibit 'A' which is contiguous to the boundaries of the City and not within the corporate boundaries of any other municipality, pursuant to a proposed annexation agreement which sets forth the terms and conditions under which annexation shall take place; and

WHEREAS, pursuant to notice, a public hearing was conducted by the City Council on September 9, 2002, to consider the terms and conditions of the proposed annexation agreement; and

WHEREAS, an annexation agreement dated September 16, 2002, among the City and Pablo and Elvira Martinez. ("Owners") ("Annexation Agreement"), is the direct result of deliberations on the proposed Annexation Agreement pursuant to the public hearing and other meetings before the City Council and City Staff.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Mayor of the City is authorized and directed to sign, on behalf of the City, the Annexation Agreement, and the City Clerk is authorized and directed to attest to the signature of the Mayor and affix the corporate seal of the City thereon. A copy of the Annexation Agreement is on file in the Office of the City Clerk and is incorporated into this ordinance by this reference as though fully set forth herein.

Section 2: The Annexation Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois, at the expense of the Owners.

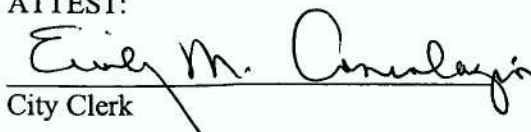
Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 4: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

Mayor



ATTEST:


City Clerk

Ayes: Roll Call Vote
Councilman Mork
Councilman Mouhelis
Councilman Eckhoff
Councilman Gresk
Councilman Johnson
Mayor Carr
Councilwoman Johnson

Nays: None

Absent: None

Motion Carried Unanimously

Passed: September 16, 2002
Published: September 17, 2002

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT ("Agreement"), made and entered into this 16th day of September 2002, among the City of Wheaton, an Illinois municipal corporation, located in DuPage County, State of Illinois ("City"), and Pablo and Elvira Martinez ("Owner").

WITNESSETH

WHEREAS, Owner has an interest in, or control of, the real estate legally described on Exhibit A, which is attached to and made a part of this Agreement ("Subject Property"); and

WHEREAS, the City has concluded that once annexed the Subject Property would further the growth of the City, enable the City to control the development of the area, increase the taxable value of the property within the City, extend the corporate limits and jurisdiction of the City, permit the sound planning and development of the City, and otherwise enhance and promote the health, safety, and general welfare of the City; and

WHEREAS, the Subject Property is contiguous to the corporate limits of the City; and

WHEREAS, pursuant to the provisions of Section 6.1, et seq., of the Wheaton City Code and applicable provisions of the Illinois Compiled Statutes and Illinois Constitution, a proposed annexation agreement in substance and form of the same as this Agreement was submitted to the Wheaton City Council, and a public hearing was held thereon pursuant to notice as provided by ordinance and statute; and

WHEREAS, the City has had such hearings and heard such testimony as prescribed by law with respect to the required zoning classification of R-3, Residential District; and

WHEREAS, notice has been duly served in the manner provided by statute on the appropriate governmental entities and an affidavit that service of said notice has been duly served has been placed on record with the Recorder of Deeds, DuPage County, Illinois.

NOW, THEREFORE, in consideration of the foregoing preambles and mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. LEGAL CONFORMANCE WITH LAW. This Agreement is made pursuant to and in accordance with the provisions of the Wheaton City Code and applicable provisions of the Illinois Compiled Statutes and the Illinois Constitution.

2. PETITION TO ANNEX/ANNEXATION AGREEMENT. Owner has filed with the Clerk of the City, a proper petition, pursuant to the provisions of the Illinois Compiled Statutes [65 ILCS 5/7-1-8 (1998 State Bar Association Edition)], conditioned on the execution of an annexation agreement to annex the Subject Property to the City. The petition for annexation, attached as Exhibit "B", is incorporated into this Agreement by this reference. This Agreement in its entirety, together with the aforesaid petition for annexation, shall be null, void, and of no force and effect unless the Subject Property is validly zoned and classified under the City's Zoning Ordinance as hereinafter set forth and amended.

3. ANNEXATION ORDINANCE. Immediately upon execution of this Agreement, the City Council will enact an ordinance annexing the Subject Property to the City.

4. REZONING. Immediately after the passage of the ordinance annexing the Subject Property, the City, shall, without further hearing, adopt an amendment to its Zoning Map, which is part of the zoning and the comprehensive plan of the City Ordinance, zoning and classifying the Subject Property in the R-3 Residential District zoning classification.

6. SANITARY SEWER FACILITIES. The Owner shall connect the single family home on the Subject Property to the sanitary sewer line located in the Darling Street right-of-way in accordance with the City Code and such connection shall occur within one (1) year of the date of this Agreement. The Owner shall pay all permit and connection fees in full force and effect at the time of the connection of the Subject Property to the sanitary sewer line. The City agrees to cooperate in obtaining such permits as may be required from time to time by both Federal, State, Municipal law, including, without limitation, the Illinois Environmental Protection Agency and the Wheaton Sanitary District. The Owner shall abandon the existing septic system servicing the Subject Property upon connection to the sanitary line.

7. CONNECTION TO THE CITY WATER SYSTEM. The Owner shall connect the single home on the Subject Property to the City's water main located within the Darling Street right-of-way in accordance with City Code and such connection to City water shall occur within one (1) year of this Agreement. The Owner shall pay all City permit and connection fees in full force and effect, pursuant to the City Code, at the time of the connection of the Subject

Property to the water main. The Owner shall abandon the existing well servicing the property upon connection to the City's water system as in accordance with Section 74-233 of the City Code.

8. SIDEWALK CONSTRUCTION AND ADDITION OF A PARKWAY TREE.

The Owner shall construct a public sidewalk along the east side of Darling Street for the full frontage of the Subject Property and plant a parkway tree along the east side of Darling Street within one year of the date of this Agreement. A public sidewalk construction plan and planting plan shall be submitted and approved by the Director of Engineering.

9. CONDITION OF PUBLIC IMPROVEMENTS. The City shall have no obligation of any kind with respect to the public improvements presently existing within and adjacent to the Subject Property. Once the Subject Property is annexed to the City, the City shall maintain the public improvements within and adjacent to the Subject Property in the customary manner in which it maintains public improvements.

10. CITY ADDRESS. Upon the passage of the ordinance annexing the Subject Property, Owner shall, within 90 days of the date of agreement, change the address of the Subject Property from the current County address, ON 639 Darling Street, to a City address, 1944 Darling Court, as directed by the City and/or the United States Post Office.

11. WHEATON PARK DISTRICT ANNEXATION. Owner agrees to annex, pursuant to Statute, the Subject Property to the Wheaton Park District within one (1) year of passage of the date of this Agreement.

12. ANNEXATION AND PERMIT FEES. The amount of the permit, license, tap-on or connection fees imposed by the City which are applicable to or required to be paid by the Owners or successor Owners, contractors, subcontractors, materialmen, or others performing work or supplying materials in connection with the development or construction of improvements on the Subject Property shall be the amount or rate of said fees in effect at the time of application for same.

13. PLAT OF CONSOLIDATION. The Plat of Consolidation, attached as Exhibit B, has been reviewed by the corporate authorities of the City, and is hereby approved.

14. CONFLICT IN REGULATIONS. The provisions of this Agreement shall supersede the provisions of any ordinances, codes, or regulations of the City which may be in conflict with the provisions of this Agreement.

15. AMENDMENT OF ANNEXATION AGREEMENT. This Agreement may be amended pursuant to the provisions of the City Code, Zoning Ordinance and Illinois Municipal Code.

16. TERM OF AGREEMENT. This Agreement shall be binding upon the parties hereto, their respective successors and assigns for a full term of ten (10) years from the date of this Agreement.

17. TIME OF THE ESSENCE. Time is of the essence of this Agreement.

18. INVALIDITY. If any provision of this Annexation Agreement, or any section, sentence, clause, phrase, or word, or the application thereof in any circumstances, is held invalid, the validity of the remainder of this Annexation Agreement and the application of such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

19. INDEMNIFICATION. Owner shall indemnify and hold the City harmless from all injuries to persons and property which arise due to the negligence of the Owner, its agents, assigns, employees, contractors, and subcontractors. Owner shall indemnify and hold the City harmless from all causes of action, suits, judgments, settlements, legal fees, and all other costs which may be incurred by the City as a result of this aforesaid negligence. The Owner shall provide the City with certificates of insurance as required by any Subdivision Improvement Agreement hereafter entered between the City and Owner.

20. BINDING EFFECT. This Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, assigns, successors, and grantees; and this Agreement shall be recorded in the Office of the DuPage Recorder of Deeds at the expense of the Owner.

21. NOTICES. Notices or other writings which any party is required to, or may wish to, serve upon any other party in connection with this Agreement shall be in writing and shall be delivered personally or sent by certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

Owner: Pablo and Elvira Martinez
0N639 Darling Street
Wheaton, Illinois 60187; and

City: City Clerk
City of Wheaton
303 West Wesley Street, Box 727
Wheaton, Illinois 60189-0727.

22. RECORDING. This Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois at the expense of the Owner.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the date first above written.

City of Wheaton, an Illinois Municipal Corporation

Owner

By: _____

Mayor

By: _____

ATTEST:

Emily M. Connelley
City Clerk

ATTEST:

EXHIBIT A

LOT 25 AND THE NORTH HALF OF LOT 24 IN WHEATON PARK TERRACE, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 9, 1929 AS DOCUMENT NO. 287630, IN DUPAGE COUNTY, ILLINOIS.

P.I.N. 05-08-208-022 05-08-208-023