

ORDINANCE NO. F-1703

AN ORDINANCE AUTHORIZING THE SIGNING OF AN ANNEXATION AGREEMENT - 1S631 HAWTHORNE LANE - DISCHER

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 ("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 February 25, 2013 to consider the terms and conditions of the proposed Annexation Agreement; and

WHEREAS, an annexation agreement dated April 1, 2013, among the City and Thomas and Debra Discher ("Owners"), 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:

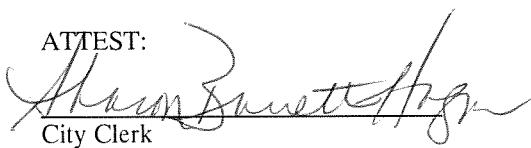
Section 1: The Mayor of the City is authorized and directed to sign, on behalf of the City, the Annexation Agreement, and the City Clerk is authorized and directed to attest to the signature of the Mayor and affix the corporate seal of the City thereon. A copy of the Annexation Agreement is on file in 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.

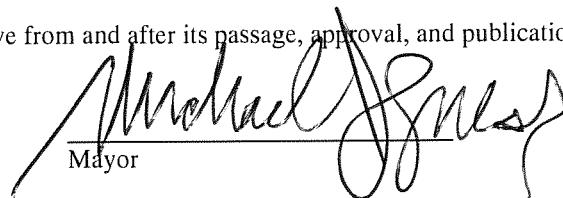
Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

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

ATTEST:



Sean Bennett
City Clerk



Michael Gresk
Mayor

Roll Call Vote

| | |
|-------|--|
| Ayes: | Councilman Mouhelis Councilman Rutledge Councilman Saline Mayor Gresk Councilwoman Pacino Sanguinetti Councilman Scalzo Councilman Suess |
|-------|--|

Nays: None

Absent: None

Motion Carried Unanimously

Passed: April 1, 2013

Published: April 2, 2013

EXHIBIT A

LOT 6, EXCEPT THE WEST 75 LINKS (49.5 FEET) THEREOF, IN OWNERS PLAT OF PART OF THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED REFRUARY 26, 1920 AS DOCUMENT 146698 IN DU PAGE COUNTY, ILLINOIS.

P.I.N. 05-21-302-010

The subject property is commonly known as 1S631 Hawthorne Lane, Wheaton, IL 60189.

THIS INSTRUMENT PREPARED BY
AND MAIL TO:

Henry S. Stillwell III
Rathje & Woodward LLC
300 E. Roosevelt Road
Suite 300
Wheaton, IL 60187

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT ("Agreement"), made and entered into this 2nd day of April, 2013 among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Thomas and Debra Discher ("Owner").

WITNESSETH

WHEREAS, the Owner has an interest in or controls the real estate comprised of a parcel of property approximately 1.68 acres in size, a description of which is set forth on the Plat of Annexation, marked as Exhibit "A", which is attached to and made a part of this Agreement (the real estate will hereafter be referred to in its entirety as "Subject Property").

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

WHEREAS, it is the desire of the Owner that all of the Subject Property be annexed to the City under the terms and conditions of this Agreement; and

WHEREAS, Owner desires to connect to City water and sanitary sewer lines; and

WHEREAS, the City has concluded that annexation of the Subject Property under the terms and conditions of this Agreement 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, 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 law; and

WHEREAS, the City has had such hearings and heard such testimony as prescribed by law with respect to the annexation and requested zoning classification of R-1 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, together with other good and valuable consideration, the receipt of which the parties acknowledge, 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 Illinois Constitution.

2. PETITION TO ANNEX. The Owner has filed with the Clerk of the City, a petition pursuant to the provisions of Section 7-1-8 of the Illinois Compiled Statutes [65 ILCS 5/7-1-8], conditioned upon the signing of this Agreement, to annex the Subject Property to the City. The petition is attached to, and incorporated in, this Agreement as Exhibit "B". This Agreement in its entirety, together with the 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 the complete signing 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 Ordinance of the City and the Comprehensive Plan of the City, zoning and classifying the Subject Property in the R-1 Residential District.

5. CONNECTION TO THE CITY WATER SYSTEM. Owner shall connect the dwelling unit to be constructed on the Subject Property ("New Dwelling") to the water main of the City located to the east of the Subject Property in the Hunters Glen Subdivision in accordance with City Code prior to issuance of an occupancy permit for the New Dwelling. 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.

6. SANITARY SEWER FACILITIES. Owner shall connect the New Dwelling to an extension of the sanitary sewer main of the City located to the east of the Subject Property in the Hunters Glen Subdivision in accordance with City Code prior to issuance of an occupancy permit for the New Dwelling. 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 City agrees to cooperate in obtaining such permits as may be required from time to time by both Federal and State law, including (without limitation) the Illinois Environmental Protection Act, permitting the connection onto the sanitary lines of the Wheaton Sanitary District in order to develop and use the Subject Property.

7. STORM WATER FACILITIES. Owner agrees to design and construct suitable storm water facilities for the Development which comply with the requirements and standards contained in Chapter 34 of the Wheaton City Code, the DuPage County Countywide Stormwater and Floodplain Ordinance, and all other applicable statutes and ordinances.

8. EXISTING WELL. Within five (5) years of the date the occupancy permit is issued for the New Dwelling, Owner shall abandon and seal the existing well in accordance with applicable regulations of the DuPage County Health Department. During said five (5) year period, the existing well shall be utilized only for landscape irrigation purposes on the property and shall not be connected to the potable water system of the New Dwelling. The City shall have the right to make periodic inspections of the Subject Property to insure full compliance with the terms of this section.

9. FUTURE WATER MAIN EXTENSION. Owner shall provide a ten foot (10') utility easement and ten foot (10') temporary construction easement along the west ("West Easements") and south ("South Easements") property lines of the Subject Property for the future construction of a water main designed to service adjacent properties along Hawthorn Lane ("Water Main Extension"). Owner shall be required to financially participate on a pro-rata basis in the Water Main Extension by paying fifty percent (50%) for all costs associated with the design and construction of that portion of the Water Main Extension to be construction within the South Easements ("Water Line Extension Contribution"). Any and all costs of the Water Main Extension shall be reviewed and approved by the Director of Engineering. No payments shall be due and owing from Owner for the Water Line Extension Contribution until (a) all work thereon has been completed and the costs thereof approved by the Director of Engineering, (b) all necessary and appropriate contractor's sworn statements and lien waivers for the work have been delivered to the City and Owner, (c) the City has approved and accepted the water line, and

(d) all areas of the Subject Property disturbed as a result of said work have been fully and properly restored to their condition preceding the work. Owner shall have no obligation or responsibility for the Water Main Extension other than the Water Main Extension Contribution.

10. BUILDING PLANS. Owner shall be required to submit to the City, plans for the New Dwelling to be constructed in the development. A building permit must be obtained and the appropriate permit fee paid as required by the Wheaton Ordinances for the New Dwelling to be constructed.

11. STOP ORDERS. The City reserves the right to terminate and stop all activities at the job site, with written notice, to correct a situation which presents a direct hazard to the public health, safety, and welfare. Any such stop work order shall be issued in accordance with the provisions of the Wheaton city Code and adopted Building Codes.

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 Owner or successor Owners, contractors, subcontractors, material men, 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. SCHOOL AND PARK CASH CONTRIBUTIONS. Owner agrees to provide an aggregate school and park cash contribution in the amount required by the City's Ordinances for the New Dwelling, representing the cash contribution amount in effect at the time the petition for annexation was signed by Owner. This cash contribution shall be paid prior to the issuance of an occupancy permit for the New Dwelling.

14. WHEATON PARK DISTRICT ANNEXATION. Owner shall annex, pursuant to Statute, the Subject Property to the Wheaton Park District within one (1) year from the date of this agreement.

15. TREE PRESERVATION. Prior to the issuance of a Site Development Permit, Owner shall comply with the Tree Preservation requirements as set forth in Section 6.11 of the Wheaton Zoning Ordinance, subject to the provisions of the Site Plans and the terms of this Agreement.

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

17. AMENDMENT OF ANNEXATION AGREEMENT. This Annexation Agreement, and any exhibit attached hereto, may be amended pursuant to the provisions of Chapter 6 of the City Code.

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

19. 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.

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

21. INDEMNIFICATION. Owner shall indemnify and hold the City harmless from all injuries to persons and property which arise due to the actions 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 its actions and conduct. Owner shall provide the City with certificates of insurance as required by any Subdivision Improvement Agreement hereafter entered between the City and Owner.

22. BINDING EFFECT. This Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, assigns, successors, and grantees.

23. 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:

A. **Thomas and Debra Discher**
1796 Schillerstrom Court
Wheaton, IL 60189

B. **City of Wheaton**
City Clerk
City of Wheaton
303 West Wesley Street
Wheaton, IL 60189-0727

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

IN WITNESS WHEREOF, the Corporate authorities and Owner have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials and the Corporate seal attached here, all on the day and year first above written.

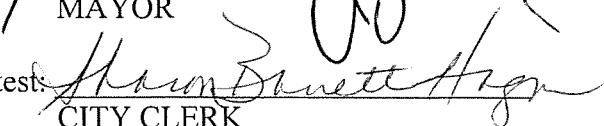
CITY:

By:



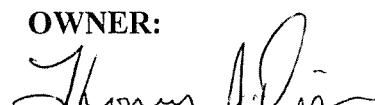
MAYOR

Attest:

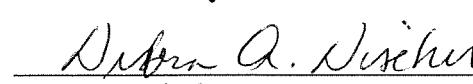


CITY CLERK

OWNER:



Thomas J. Discher



Debra A. Discher

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Michael Gwisk, Mayor, and Jeanne Bennett-Hagen, City Clerk, of the CITY OF WHEATON, an Illinois municipal corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instruments as such Mayor and City Clerk, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said City Clerk then and there acknowledged that she, as custodian of the records of the corporation, did affix the corporate seal of said corporation to said instrument as her own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2 day of April 2013.

Sara Bemer
Notary Public



STATE OF Illinois)
) ss
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas J. Discher, personally known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 25th day of March, 2013.

STATE OF Illinois)
) ss
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Debra A. Discher, personally known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 25th day of March 2013

OFFICIAL SEAL
DAWN L. RATHE
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires 02/16/2017

SCHEDULE OF EXHIBITS

EXHIBIT "A" Plat of Annexation and Legal Description of Subject Property

EXHIBIT "B" Petition for Annexation

EXHIBIT "A"

**PLAT OF ANNEXATION
AND LEGAL DESCRIPTION OF SUBJECT PROPERTY**

PLAT OF ANNEXATION TO THE CITY OF WHEATON

LOT 6, EXCEPT THE WEST 50 LUMS (140.5 FEET) THEREOF
SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 19 NORTH
ACCORDING TO THE PLAT THEREIN RECORDED FEBRUARY 26.

IN CRESS PLAT OF PART OF THE WEST HALF OF THE
RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN
1920 AS EVIDENCED BY PLATE 14600 IN THE PAGE COUNTY, ILLINOIS

7-138-85-21-302-212

CLUE: **CHICAGO** **GOALS**

47.8% 18-19 IN 1974-5

THIS IS TO CERTIFY THAT WE, SIGNATURES OF LAND SURVEYORS INC., PROFESSIONAL LAND SURVEYING FIRM NO. 182-00105, HAVE PREPARED THE PLAT DRAWN HERIN FOR THE PURPOSE OF ANEXATION TO THE CITY OF WILTON.

WEST CHICAGO, ILLINOIS SEPTEMBER 7, 2012.

A circular official stamp with a decorative border. The text inside reads: "U.S. GENERAL LAND OFFICE", "CHICAGO", "LAND SURVEYOR", "MAY 25, 1858".

STRUCTURAL AND SURVEYING INC. (S)

PJUHARD J. STEWART, PSP
PROFESSIONAL LAND SURVEYOR #3663
MY LICENSE EXPIRES NOVEMBER 30, 2012

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STATE OF ALASKA

THIS INSTRUMENT NO. IS BEING FILED FOR RECORD IN THE RECORDS OF
OFFICE OF DU PAGE COUNTY, ILLINOIS, THIS DAY OF, 19....
AT O'CLOCK

www.elsevier.com/locate/jpngeog

CITY OF WHEATON CERTIFICATE

STATE OF ILLINOIS : 150
COUNTY OF CALUMETTE :

THE ABOVE-ENCL PLAT IT IS UNDERTAKEN TO BE REPRESENTATIVE OF THE PROPERTY
UNDEPONITED INTO AND MADE A PART OF THE CITY OF WEAHON, AS PER ORDINANCE
NO. _____, ADOPTED BY THE HABIA AND CITY OF WEAHON.

PREPARED FOR:
PATRICK J. MURRAY BUILDERS INC
11112 BOB-O-LINK DRIVE
WINFIELD IL 60190

ATTEST: *John C. Cleek*

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A-2

LEGAL DESCRIPTION OF SUBJECT PROPERTY

LOT 6, EXCEPT THE WEST 75 LINKS (49.5 FEET) THEREOF, IN OWNERS PLAT OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 26, 1920 AS DOCUMENT 146698, IN DUPAGE COUNTY, ILLINOIS.

EXHIBIT "B"

PETITION FOR ANNEXATION

STATE OF ILLINOIS
COUNTY OF DU PAGE

To: Mayor and City Council
City of Wheaton, Illinois

PETITION FOR ANNEXATION

The undersigned, as owner of record of the property described in Exhibit "A" attached hereto and pursuant to Sections 5/7-1-8 of Chapter 65 of the Illinois Compiled Statutes (2008 ed.), respectfully represents unto the Mayor and City Council of the City of Wheaton ("City") as follows:

1. That the undersigned are the owners of record of the real estate legally described in Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter sometimes referred to as "Subject Property").
2. That the Subject Property constitutes a contiguous tract of land.
3. That the Subject Property is not within the corporate limits of any municipality.
4. That the Subject Property is within an unincorporated area of DuPage County but is contiguous to the existing corporate limits of the City.
5. That there are no electors residing on the Subject Property.
6. That the undersigned constitutes all of the owners of record of the Subject Property.
7. That the undersigned is desirous of annexing the Subject Property to the City, provided that prior to annexation of the Subject Property a certain annexation agreement is executed by and between the undersigned and the City, pursuant to the provisions of Section 5/11-15.1, et seq., of Chapter 65, of the Illinois Compiled Statutes (2008 ed.), which annexation agreement shall encompass and pertain to the entirety of the Subject Property.
8. That prior to the annexation of the Subject Property to the City, the undersigned shall submit to the City a plat of annexation depicting and legally describing the Subject Property.
9. That the undersigned hereby authorizes Henry Stillwell, as attorney for owners, or such other person or persons as may from time to time be designated in writing by the undersigned, to proceed with all necessary and appropriate meetings and public hearings before the corporate authorities of the City for the purpose of effectuating the purpose of this Petition.

WHEREFORE, the undersigned pray as follows:

1. That the corporate authorities of the City will hold such public hearings as are required by law.
2. That the corporate authorities of the City will enter into a certain Annexation Agreement herewith submitted by the undersigned record owners of the Subject Property.
3. That upon execution of said Annexation Agreement by the undersigned record owners of the Subject Property and the City, and only in the event said Annexation Agreement is mutually agreed upon and so executed, and upon the submission by the undersigned and approval by the City of the aforesaid plat of annexation, to annex the Subject Property to the City all in compliance with such statutes and ordinances as are required by law.

OWNER:

Thomas J. Discher
Thomas J. Discher

Debra A. Discher
Debra A. Discher

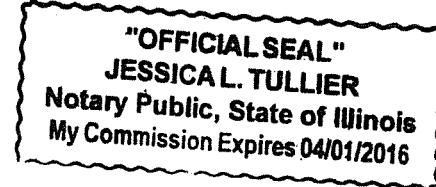
STATE OF Illinois)
) ss
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas J. Discher, personally known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 17th day of December 2012.

Jessica L. Miller
Notary Public

STATE OF Illinois)
) ss
COUNTY OF DuPage)



I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Debra A. Discher, personally known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 17th day of December 2012.

Jessica L. Seiller
Notary Public

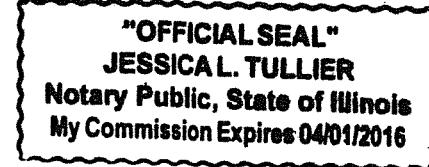


EXHIBIT "A"

LEGAL DESCRIPTION OF SUBJECT PROPERTY

LOT 6, EXCEPT THE WEST 75 LINKS (49.5 FEET) THEREOF, IN OWNERS PLAT OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 26, 1920 AS DOCUMENT 146698, IN DUPAGE COUNTY, ILLINOIS.

