
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: WALTER MAGDZIARZ, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: ORDINANCE: HANNAFORD FARM ANNEXATION AGREEMENT AMENDMENT FOR MULTIPLE LOTS
AGENDA: AUGUST 20, 2019 REGULAR VILLAGE BOARD MEETING
DATE: AUGUST 16, 2019

ISSUE

Shall the Village Board approve an Annexation Agreement Amendment pertaining to Hannaford Farm Lots 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, and 130, and Schalz's Subdivision (Resubdivision of Lots 109 & 110))

DISCUSSION

The Hannaford Farm annexation agreement was approved on May 25, 2004. On March 20, 2007 the annexation agreement was amended for a requirement relating to improvement of the intersection of Bliss and Merrill Roads. The March 20, 2007 amendment also incorporated an October 3, 2006 amendment relating to architectural requirements that was approved by ordinance but not formally drafted at that date. Additionally, on September 16, 2008 the annexation agreement was amended for the funding mechanics of the Bliss and Merrill Road intersection, removing the permit limit prior to those improvements taking place, and deferring Capital Improvement Fees.

Due to the failure of the initial developer/owner of Hannaford Farm to complete the required public improvements and the subsequent failure of the bank backing the associated Letter of Credit guaranteeing the funds needed to complete the public improvements, the responsibility to complete these improvements falls to the successor/s, i.e., individual lot owners.

In 2009, the Village determined that each successor lot owner would be required to pay a fee to cover their portion of the overall outstanding public improvement costs. This fee in-lieu-of-development (FILOD) and associated changes to the annexation agreement are made a part of an annexation agreement amendment that needs to be processed for each lot. An amendment needs to be completed for each lot prior to issuance of a building permit and to remove the *lis pendens* recorded against the lot.

The respective owners of Lots 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, and 130, and Schalz's Subdivision (a resubdivision of Lots 109 & 110)) have paid the FILOD in effect at the time they each applied for a building permit. By doing so, they have thereby completed their financial obligations with respect to the required subdivision public improvements under the annexation agreement, and they desire to remove the *lis pendens* from their respective lots.

The annexation agreement amendment acknowledges each lot owner has completed their obligations under the annexation agreement, and that upon approval of the Ordinance, the Village is obligated to remove the *lis pendens* recorded against the lot. All other aspects of the original annexation agreement remain untouched and unaffected by this amendment.

Staff recommends approval of the Annexation Agreement amendment for Hannaford Farm Lots 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, and 130, and Schalz's Subdivision (Resubdivision of Lots 109 & 110)).

For your information, the Village Board has approved Annexation Agreement amendments to date for the following lots in Hannaford Farm:

May 18, 2010:	Lot 104,	1011 Redbud Lane
June 1, 2010:	Lot 29,	1098 Chestnut Hill Lane
June 15, 2010:	Lot 35,	1014 Chestnut Hill Lane
November 1, 2011:	Lot 53,	1800 Hunters Ridge Lane
January 7, 2014:	Lot 62,	835 Wheatfield Avenue
February 4, 2014:	Lot 28,	494 Willow Street
March 4, 2014:	Lot 99,	1091 Redbud Lane
November 18, 2014	Lot 42,	1759 Hunters Ridge Lane
January 20, 2015	Lot 36,	990 Chestnut Hill Lane
February 17, 2015	Lot 55,	1800 Hunters Ridge Lane
August 4, 2019	Lot 116,	1885 Hunter's Ridge Lane

With the adoption of this annexation agreement amendment 41 undeveloped lots remain in Hannaford Farm to follow the same course of action.

ATTACHMENTS

- Ordinance Authorizing Execution of an Annexation Agreement Amendment

COSTS

There are publication, Village Attorney and recording costs associated with the required action that is the responsibility of the Village.

RECOMMENDATION

That the Village Board approve an Ordinance Authorizing Execution of an Annexation Agreement Amendment for Hannaford Farm Lots 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, and 130, and Schalz's Subdivision (Lots 109 & 110).



**VILLAGE OF SUGAR GROVE
KANE COUNTY, ILLINOIS**

ORDINANCE NO. 2019-0820__

**AN ORDINANCE AUTHORIZING EXECUTION OF AN ANNEXATION AGREEMENT AMENDMENT FOR
HANNAFORD FARM LOTS 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, AND 130, AND
SCHALZ'S SUBDIVISION (RESUBDIVISION OF LOTS 109 & 110)**

Adopted by the Board of Trustees and President of the Village of Sugar Grove
this 20th day of August 2019

Published in pamphlet form by authority of the Board of Trustees of the Village of Sugar Grove,
Illinois, this 20th day of August 2019

VILLAGE OF SUGAR GROVE

ORDINANCE NO. 2019-0820__

AN ORDINANCE AUTHORIZING EXECUTION OF AN ANNEXATION AGREEMENT AMENDMENT FOR HANNAFORD FARM LOTS 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, AND 130, AND SCHALZ'S SUBDIVISION (RESUBDIVISION OF LOTS 109 & 110)

WHEREAS, the Village of Sugar Grove (the "Village") is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution and, pursuant to the powers granted to it under 65 ILCS 5/1-8 *et seq.*; and,

WHEREAS, Trust #48-9807 Old Second National Bank, Trustee, Jerald & Jayne Schomer; William & Mary Lenert; Scott & Cheryl Wilson; Michael & Deborah Rooney; Matthew & Alyssa Dekoker; Paul & Teresa Thorson; Matthew Bonnie; Mark & Tami Kornowski; Paul & Pamela Kunas; Joseph Diguglielmo, Jr.; Simon & Jenna Staub; Subbaiah & Sushmita Prathipati; Jeffrey & Danielle King; and , Philip Schalz, (the "LOT OWNER(S)" and/or "LOT DEVELOPER(S)") have petitioned for an amendment to the Annexation Agreement for a portion of the Hannaford Farm development, specifically, Lots 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, and 130, and Schalz's Subdivision (Lots 109 & 110), respectively; and,

WHEREAS, the corporate authorities of the Village have held a public hearing on August 20, 2019 on the proposed amended agreement, similar in form and substance to the Agreement attached hereto, pursuant to notice by publication in a newspaper of general circulation in the Village being not less than 15 days nor more than 30 days prior to said public hearing; and,

WHEREAS, the corporate authorities have approved this Agreement; and,

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

SECTION ONE: AMENDED ANNEXATION AGREEMENT

That the Amended Annexation Agreement entered into by and between the Village of Sugar Grove, an Illinois municipal corporation (the "Village"); and Trust #48-9807 Old Second National Bank, Trustee, Jerald & Jayne Schomer; William & Mary Lenert; Scott & Cheryl Wilson; Michael & Deborah Rooney; Matthew & Alyssa Dekoker; Paul & Teresa Thorson; Matthew Bonnie; Mark & Tami Kornowski; Paul & Pamela Kunas; Joseph Diguglielmo, Jr.; Simon & Jenna Staub; Subbaiah & Sushmita Prathipati; Jeffrey & Danielle King; and , Philip

Schalz, (the "LOT OWNER(S)" and/or "LOT DEVELOPER(S)"); setting forth terms and conditions relating to the territory legally described in **Exhibit A** is hereby incorporated by reference in this ordinance as if fully set forth in the body hereof, a copy of which is attached hereto as **Exhibit B**. Said **Exhibit B** is hereby approved and the Village President and Clerk are hereby authorized and directed to execute said amended agreement on behalf of the Village of Sugar Grove.

SECTION TWO: RECORDING AND NOTICE

The Village Clerk is hereby further authorized and directed to record this ordinance along with all exhibits in the Office of the Recorder of Kane County.

SECTION THREE: GENERAL PROVISIONS

REPEALER: All ordinances or portions thereof in conflict with this ordinance are hereby repealed.

SEVERABILITY: Should any provision of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect the same as if the invalid provision had not been a part of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, this 20th day of August 2019.

ATTEST:

P. Sean Michels,
Village President

Cynthia L. Galbreath,
Village Clerk

	Aye	Nay	Absent	Abstain
Trustee Sean Herron	___	___	___	___
Trustee Ted Koch	___	___	___	___
Trustee Jen Konen	___	___	___	___
Trustee Heidi Lendi	___	___	___	___
Trustee Rick Montalto	___	___	___	___
Trustee Ryan Walter	___	___	___	___

Exhibit A

(Legal Description)

Lot 46 in Hannaford Farm Subdivision Unit 1, being a subdivision of part of the Southeast Quarter of Section 4 and the Northeast Quarter of Section 9, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded December 14, 2004 as Document No. 2004K159382, in Kane County, Illinois; and,

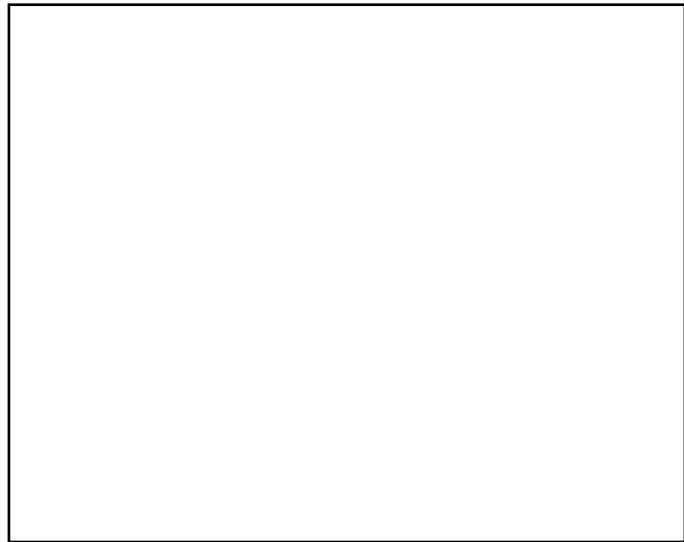
Lots, 54, 66, 67, 68, 91 96, 98, 100, 101, 103, 108, 121, and 130 in Hannaford Farm Subdivision Unit 2, being a subdivision of part of the South Half of Section 4, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded April 9, 2007 as Document No. 2007K038156, in Kane County, Illinois; and,

Shalzs Subdivision, being a resubdivision of Lots 109 and 110 in Hannaford Farm Subdivision Unit 2, being a subdivision of part of the South Half of Section 4, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded March 3, 2018 as Document No. 2018K01401438156, in Kane County, Illinois

Exhibit B

(Amended Annexation Agreement on following pages)

STATE OF ILLINOIS)
) ss
COUNTY OF KANE)



Prepared by:
Laura M Julien
Mickey, Wilson, Weiler, Renzi, Lenert &
Julien, PC.
160 S. Municipal Drive
Sugar Grove, IL 60554

Return to after recording:
Village Clerk
Village of Sugar Grove
10 Municipal Drive
Sugar Grove, IL 60554

Reserved for Recorder's Use

Lot by Lot Amendment to Annexation Agreement

(Hannaford Farm Subdivision Lots 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, and 130, and Schalz's Subdivision (Lots 109 & 110))

This Amendment to Annexation Agreement (the "Amendment"), is made and entered into this ____ day of August 2019, by and between the VILLAGE OF SUGAR GROVE, a municipal corporation (the "VILLAGE"); and Trust #48-9807 Old Second National Bank, Trustee, Jerald & Jayne Schomer; William & Mary Lenert; Scott & Cheryl Wilson; Michael & Deborah Rooney; Matthew & Alyssa Dekoker; Paul & Teresa Thorson; Matthew Bonnie; Mark & Tami Kornowski; Paul & Pamela Kunas; Joseph Diguglielmo, Jr.; Simon & Jenna Staub; Subbaiah & Sushmita Prathipati; Jeffrey & Danielle King; and , Philip Schalz, owners of Lots 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, and 130, and Schalz's Subdivision (Lots 109 & 110), respectively, as successor Developer and Owner of the lot or lots owned by each of them (the "LOT OWNER" and/or "LOT DEVELOPER" as applicable), and also individually referred to as "Party" and collectively referred to as "Parties."

WITNESSETH

WHEREAS, LOT OWNERS own fee simple interest to the property which is legally described in **Exhibit "AA"**, attached hereto, consisting of Lots 46, 54, 66, 67, 68, 91, 96, 98, 100, 101, 103, 108, 121, and 130, and Schalz's Subdivision (Lots 109 & 110), (the "LOTS"), which were the subject of an Annexation Agreement recorded on July 8th, 2004 in Kane County as Document number 2004K090340 (and subsequently amended); and,

WHEREAS, it is the desire of each LOT OWNER and LOT DEVELOPER to amend the annexation agreement for this portion of the original development (pursuant to Section 16A) only to address changes in circumstances since the time of the original agreement was passed; and,

WHEREAS, due to the failure of the initial Developer of the property to complete the required public improvements, it falls to each successor LOT DEVELOPER/LOT OWNER to complete said public improvements pursuant to Section 18 of the original Annexation Agreement for the Property; and,

WHEREAS, in consideration of the negotiations between the Parties, the Parties have agreed that if each LOT OWNER/LOT DEVELOPER complies with all obligations of the annexation agreement and pays to the Village an additional impact fee (as noted herein) to address such LOT OWNER's obligations for the Public Improvements, the Village will allow said LOT OWNER to develop the respective Lot.

WHEREAS, all notices required by law relating to amending the original annexation agreement 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 and completed the time for a public hearing on this Amendment and pursuant to legal notice have held such hearing thereon all as required by the provisions of the Illinois Compiled Statutes; and,

WHEREAS, in accordance with the powers granted to the VILLAGE by the provisions of 65 ILCS 5/11-15.1-1 through 15.1-5, inclusive, relating to Annexation Agreements, the parties hereto wish to enter into a binding Amendment to Annexation Agreement and to provide for various other matters related directly or indirectly to the annexation of the LOTS as authorized by the provisions of said statutes; and,

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 parties agree as follows:

1. Section 24 CREATED.

Section 24 is hereby created to read as follows:

Prior to this amendment of the annexation agreement for this property, the LOT OWNER/LOT DEVELOPER was responsible for various public improvements listed on **Exhibit BB**. In lieu of completion of said items listed on **Exhibit BB**, the LOT OWNER/LOT DEVELOPER shall pay, at issuance of the building permit, an amount as determined by VILLAGE to be in satisfaction of the LOT's obligation for the items listed on **Exhibit BB**. LOT OWNER/LOT DEVELOPER shall otherwise comply with all remaining obligations of the Annexation Agreement and development ordinances of the Village. All remaining sections of the Annexation Agreement (and previous amendments, if applicable to this LOT) shall remain in full force and effect.

2. Section 25 CREATED.

A new Section 25 is hereby created to read as follows:

The Parties acknowledge and agree that the terms and conditions of this Amendment, including the payment of new fees, have been reached through a process of good faith negotiation, both by Parties 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 and not affecting any other lot or owner other than the LOTs and LOT OWNERS named herein and that the VILLAGE is free to negotiate additional amendments (with the same or different terms) with other lot owners without affecting in any way, the validity or enforceability of this Amendment and Agreement. Further this Amendment shall not be construed to benefit any third party, nor act as a release of any other owner, developer or surety's obligations under the original annexation agreement, any amendments thereto, the ordinances of the Village, the Letters of Credit previously posted, the liability of the issuing bank(s) or the FDIC in its action relative to said sureties.

By entering into this agreement, each LOT OWNER/ LOT DEVELOPER (and his/her/its successors and assigns) hereby waives and releases any and all claims against the VILLAGE, its officers, agents, consultants, and assigns for any and all claims or damages of any type of character, including the costs of defending any such claims or damages, (including reasonable attorney's fees for attorneys to be chosen at the discretion of the VILLAGE) as a result of the actions of the VILLAGE in filing *lis pendens* and notices of breach, denial of building permits or other actions taken by the VILLAGE to insure the cure of breach of the Annexation Agreement.

3. Section 26 CREATED.

Section 26 is hereby created to read as follows:

Each LOT OWNER and LOT DEVELOPER agrees that prior to issuance of a building permit they shall execute and have recorded upon their LOT (and have their LOT subjected to said covenants) the covenants attached hereto as **Exhibit CC**.

4. REMAINDER OF AGREEMENT UNAFFECTED; AMENDMENT INTEGRATED IN AGREEMENT.

The Parties hereby agree and acknowledge that the remaining provisions of the original annexation agreement and previous amendments which are not referenced or amended by this Amendment shall remain in effect for the term of the Agreement. For purposes of construing the provisions of the Agreement, the Parties agree that this Amendment shall be fully integrated into the Agreement from and after its execution by the Parties.

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

VILLAGE:

**Village of SUGAR GROVE, an Illinois
municipal corporation**

ATTEST:

Cindy Galbreath,
Village Clerk

P. Sean Michels,
Village President

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that P. Sean Michels and Cindy Galbreath, 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 acknowledge that as such Village President and Village Clerk, they signed and delivered the said instrument as President and Village Clerk caused the corporate seal of said Village to be affixed thereto, pursuant to authority, given by the Village of Sugar Grove Village 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 _____, 2019.

Notary Public

EXHIBIT AA

(Legal Descriptions)

Lot 46 in Hannaford Farm Subdivision Unit 1, being a subdivision of part of the Southeast Quarter of Section 4 and the Northeast Quarter of Section 9, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded December 14, 2004 as Document No. 2004K159382, in Kane County, Illinois; and,

Lots, 54, 66, 67, 68, 91 96, 98, 100, 101, 103, 108, 121, and 130 in Hannaford Farm Subdivision Unit 2, being a subdivision of part of the South Half of Section 4, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded April 9, 2007 as Document No. 2007K038156, in Kane County, Illinois; and,

Shalzs Subdivision, being a resubdivision of Lots 109 and 110 in Hannaford Farm Subdivision Unit 2, being a subdivision of part of the South Half of Section 4, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded March 3, 2018 as Document No. 2018K01401438156, in Kane County, Illinois

EXHIBIT BB

(Completion Items)

The improvements include some grading to accommodate the overland flow route, sanitary sewer manhole repairs and adjustments, valve vault and fire hydrant repairs and adjustments, storm sewer and structure repairs, adjustments and installation, curb and gutter repairs, pavement patching and replacement as required, surface course installation on roadways of the internal subdivision and Denny Road, minor sidewalk repairs, signage repairs and replacement, streetlight repairs, landscaping, minor restoration within the right of way adjacent to common areas, bike path repairs, additional bike path installation and replacement along Wheatfield and Redbud, soil erosion control necessary to complete these improvements, record drawing preparation, and fees associated with engineering, attorney, and snowplowing for the Hannaford Farm subdivision.

EXHIBIT CC

(Conditions, Covenants and Restrictions)

Conditions Covenants and Restrictions (CCR's) recorded as document number 2011K026408 in the Kane County Recorder' s Office