

PUBLIC MEETING NOTICE AND AGENDA
VILLAGE OF HUNTLEY
VILLAGE BOARD MEETING



THURSDAY, SEPTEMBER 12, 2013
7:00 P.M.
AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Special Presentation
 - a) Chamber of Commerce Week September 8th – 14th
4. Public Comments
5. Public Hearing
 - a) Petition for an Amendment to the Annexation Agreement to the Par Development Inc./ Tucker Development Corporation and Harris N.A. Annexation Agreement, Ordinance No. 2007-03.12
6. Consideration of an Ordinance Approving an Amendment to the Par Development Inc./Tucker Development Corporation and Harris N.A. Annexation Agreement, Ordinance No. 2007-03.12
7. Consent Agenda
(All items listed under Consent Agenda have been discussed at the Committee of the Whole and may be approved/accepted by one motion. The Village Clerk will number all Ordinances and Resolutions in order, following approval)
 - a) Approval of the August 8, 2013 Village Board, August 15, 2013 Committee of the Whole and August 22, 2013 Village Board Meeting Minutes
 - b) Approval of the September 12, 2013 Bill List in the amount of \$504,909.41
 - c) Approval of an Ordinance approving Preliminary and Final Plat of Subdivision, and Preliminary and Final Planned Unit Development to allow a 101-lot single family residential subdivision for Pod 8A-Phase 3 in the Talamore Subdivision
 - d) Approval of an Ordinance approving a request for Final Plat of Subdivision and Final Planned Unit Development for Pod 1 (161-lots) in the Talamore Subdivision
 - e) Approval of an Ordinance Approving (i) Final Plat of Subdivision; (ii) Rezoning from "R-2" Single Family Residence District to "B-2" Highway Service; and (iii) Site Plan Review, including approval of such relief to accommodate the parking lot expansion at 10870 Route 47 / Huntley Towers
 - f) Approval of an Ordinance Approving (i) Final Planned Unit Development, including any necessary relief and (ii) a Special Use Permit for a Restaurant with a Drive-Through to accommodate the proposed McDonald's Restaurant within Outlot 8, Huntley Grove Commercial Subdivision

- g) Approval of a Resolution approving the McHenry County Council of Governments Local Government Vehicle and Equipment Auction Agreement and approval of the Sale and/or Disposal of Village Owned Property

8. Items Removed from the Consent Agenda:

9. Village Attorney's Report

10. Village Manager's Report

11. Village President's Report

12. Unfinished Business

13. New Business

14. Executive Session

- a) Probable or Imminent Litigation and Pending Litigation
- b) Contractual
- c) Property Acquisition, Purchase, Sale or Lease of Real Estate
- d) Appointment, Employment, Dismissal, Compensation, Discipline and Performance of an Employee of the Village of Huntley
- e) Collective Bargaining
- f) Appointment, Discipline or Removal Public Officers
- g) Appointment of a Public Officer
- h) Review of Closed Session Minutes
- i) Other

15. Possible Action on any Closed Session Item

16. Adjournment

MEETING LOCATION
Village of Huntley Municipal Complex
10987 Main Street
Huntley, IL 60142

The Village of Huntley is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding accessibility of the meeting or the facilities, are requested to contact Mr. David Johnson, Village Manager at 847-515-5200. The Village Board Room is handicap accessible.



David J. Johnson, Village Manager

Agenda Item: **Consideration of an Ordinance Approving an Amendment to the Par Development Inc./Tucker Development Corporation and Harris N.A. Annexation Agreement, Ordinance No. 2007-03.12**

Department: **Development Services Department – Planning and Zoning**

Introduction

The requested amendment to the Par Development Inc./Tucker Development Corporation and Harris N.A. Annexation Agreement is being requested in conjunction with an application by McDonald's USA LLC to develop Outlot 8 in the Huntley Grove commercial subdivision.

Staff Analysis

The proposed amendment will modify the Annexation Agreement to reduce the 100 foot landscape buffer to 70.5 feet for the outlots along Route 47. Additionally, the amendment also serves to establish a 10 foot bicycle path easement across the Huntley Grove outlots that are adjacent to Route 47.

Financial Impact

Not applicable.

Legal Analysis

The Village Attorney has reviewed the proposed amendment and all is in order for Village Board consideration.

Action Requested

Consideration of an Ordinance Approving an Amendment to the Par Development Inc./Tucker Development Corporation and Harris N.A. Annexation Agreement, Ordinance No. 2007-03.12

Exhibits

- Draft Ordinance

**AN ORDINANCE APPROVING
AN AMENDMENT TO THE
PAR DEVELOPMENT INC./TUCKER DEVELOPMENT CORPORATION
AND HARRIS N.A. ANNEXATION AGREEMENT**

ORDINANCE (O)2013-09._____

WHEREAS, the Village of Huntley approved Ordinance No. 2007-03.12 approving an Annexation Agreement with Par Development Inc./Tucker Development Corporation and Harris N.A. (collectively referred to as “Owners”) on May 31, 2007, as recorded with the Kane County Recorder of Deeds as Document No. 2007K058022; and

WHEREAS, the Annexation Agreement provides that in the event that only a portion of the Subject Property (but not the entire property) is affected by an amendment, only the approval of the Owners of that portion of the property affected shall be required and the Owners of the remainder shall have no right to require their approval of said agreement; and

WHEREAS, the amendment to the Annexation Agreement only affects that portion of the Subject Property owned by Viking – TDC Huntley LLC (the successor to Tucker Development Corporation); and

WHEREAS, Viking – TDC Huntley LLC and McDonald’s USA, LLC (contract purchaser of ±1.38-acres) have requested an amendment to the Annexation Agreement; and

WHEREAS, the Village of Huntley has agreed to the Annexation Agreement amendment that will amend Section 4.4. Greenbelt Perimeter Buffer and Frontage Trees, and Sidewalks of the Agreement to reduce the greenbelt perimeter buffer from 100 feet to 70.5 feet and serve to establish a ten (10) foot bicycle path easement across the Huntley Grove outlots that are adjacent to Route 47; and

WHEREAS, the Village of Huntley, Viking – TDC Huntley LLC and McDonald’s USA, LLC by mutual consent agree to the proposed amendment to the Annexation Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF HUNTLEY as follows:

SECTION I: The Village of Huntley adopts and approves the execution of the Amendment to the Annexation Agreement as attached hereto.

SECTION II: All other provisions of Ordinance No. 2007-03.12 not otherwise in conflict herewith shall remain in full force and effect.

SECTION III: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

SECTION IV: All Ordinances and parts of ordinances in conflict herewith are hereby repealed.

	Aye	Nay	Absent	Abstain
Trustee Goldman	_____	_____	_____	_____
Trustee Hanson	_____	_____	_____	_____
Trustee Kanakaris	_____	_____	_____	_____
Trustee Leopold	_____	_____	_____	_____
Trustee Piwko	_____	_____	_____	_____
Trustee Westberg	_____	_____	_____	_____

PASSED and APPROVED this 12th day of September 2013.

APPROVED:

Village President

ATTEST:

Village Clerk

This document prepared by and upon recording to be returned to:

James E. Olguin, Esq.
Goldstine, Skrodzki, Russian,
Nemec and Hoff, Ltd.
835 McClintock Drive, Second Floor
Burr Ridge, IL 60527

(Above Space for Recorder's Use)

AMENDMENT TO ANNEXATION AGREEMENT

THIS AMENDMENT TO ANNEXATION AGREEMENT (this “**Amendment**”) is made and entered into this ____ day of September, 2013, between the **Village of Huntley, Illinois** (the “**Village**”), **Viking-TDC Huntley, LLC** (the “**Owner**”) and **McDonald's USA, LLC** (the “**Purchaser**”).

WITNESSETH:

WHEREAS, the Village annexed certain real property (the “**Annexed Property**”) in accordance with that certain Annexation Agreement dated March 8, 2007 (the “**Annexation Agreement**”) as authorized by Ordinance No. 2007-03.12 which Annexation Agreement and ordinance was recorded in the office of the Kane County Recorder of Deeds on May 31, 2007, as Document Number 2007K058022; and

WHEREAS, the Annexed Property is comprised of approximately 280 acres of land located in Kane County; and

WHEREAS, an approximately 1.38 acre portion of Annexed Property, legally described on Exhibit A attached hereto (the “**Premises**”), is owned by Owner; and

WHEREAS, Purchaser and Owner have executed a real estate sales contract which covers the Premises; and

WHEREAS, the Purchaser proposes that the Premises be developed with a McDonald's restaurant with a drive-through (the “**Proposed Development**”); and

WHEREAS, the Annexation Agreement must be amended in order to permit the Proposed Development; and

WHEREAS, the Village is agreeable to such development in accordance with this Amendment; and

WHEREAS, the Village, after due and careful consideration has concluded that the Amendment of the Annexation Agreement pursuant to the terms and conditions hereinafter set forth would further the growth of the Village, enable the Village to control the development of the area, permit the sound planning and development of the Village, and otherwise enhance and promote the general welfare of the Village; and

WHEREAS, pursuant to the provisions of Section 11-15.1-1, et seq. of the Illinois Municipal Code, a proposed amendment to annexation agreement in substance and form substantially the same as this Amendment was submitted to the Village and a public hearing was held thereon pursuant to notice, as provided by statute; and

WHEREAS, the corporate authorities of the Village, after due deliberation have, by ordinance, duly adopted and approved and authorized the execution of this Amendment and directed its Village President and Village Clerk to execute this Amendment.

NOW, THEREFORE, for and in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

1. INCORPORATION AND PREAMBLE AND EXHIBITS.

The preamble to this Amendment and all exhibits referred to in the preamble and this Amendment are incorporated herein as if fully set forth in this Section 1.

2. DEVELOPMENT OF THE PREMISES.

The Village has approved the Proposed Development in accordance with the following separate approvals (collectively, the “**Proposed Development Approvals**”):

- (a) Final Planned Unit Development approved _____;
- (b) A Special Use Permit for restaurant with a drive-through approved _____.

The Village hereby agrees and acknowledges that the Premises may be developed in accordance with the Proposed Development Approvals notwithstanding any existing breach or default by any of the “Owners” under the Annexation Agreement.

3. AMENDMENT OF GREENBELT PERIMETER BUFFER.

Section 4.4 of the Annexation Agreement is hereby amended by reducing the required greenbelt perimeter buffer on the Annexed Property from One Hundred (100) feet to Seventy and One- Half (70.5) feet along Route 47.

4. GRANT OF BICYCLE PATH EASEMENT.

(a) A ten (10) foot bicycle path easement on the Premises is hereby granted by the Owner to the Village and approved by the Purchaser in the location depicted on attached Exhibit

B. The easement shall be used for pedestrian and bicycle traffic. The Village and its successors and assigns shall be solely responsible for the design, construction and maintenance of any improvements within the easement. The Village will give written notice to Purchaser at least 10 days before beginning any work in the easement area, which notice will specify the work to be performed and a date when the work will be completed. The Village will use its best efforts to complete the work by that date. The Village will separate by cones or other appropriate construction safety barriers the easement area while the Village performs any work in the easement area. The Village will perform all work in such a manner so as to not unduly disrupt the operation of the McDonald's restaurant on the Premises. The Village's access to the easement area will come off of Route 47 and no construction vehicles, equipment or materials shall be placed anywhere on the Premises without the written approval of Purchaser. If any damage occurs to the Premises or any improvements thereon arising out of, related to, or as a consequence of any of the Village's work in the easement area, the Village will repair the damage (or commence and diligently pursue repairing the damage) within 30 days after receipt of notice. The Village agrees to defend, indemnify and hold Owner and Purchaser harmless from and against any and all claims, demands, causes of action, cost (including reasonable attorneys' fees), liability, penalties, fines, damages, expenses, judgments and loss arising from injury to persons or property of any nature as a result of the construction, maintenance or use of the easement.

(b) The Owner also hereby agrees to grant additional ten (10) foot bicycle path easements across those parcels located along Route 47 that are within the Annexed Property. These additional bicycle path easements shall be located within the western-most 70.5 feet of the greenbelt perimeter buffer, with the exact location determined by the Village and Owner at such time as the Village requests the bicycle path easements or as part of any development or building approvals required for the development of said lots and memorialized by separate ordinance(s), whichever occurs first.

5. ORIGINAL AGREEMENT.

Owner and the Village represent and warrant to the other that to the best of their respective knowledge, no violations or default exist under the Annexation Agreement by any of the parties thereto.

6. NOTICES.

Section 30 of the Annexation Agreement is amended to add the following addresses for notices, requests or demands related to the Premises:

McDonald's USA, LLC
Attn: _____
One McDonald's Plaza
Oak Brook, IL 60523

With Copy to:
James E. Olguin, Esq.
Goldstine, Skrodzki, Russian, Nemec and Hoff, Ltd.
835 McClintock Drive, Second Floor
Burr Ridge, IL 60527

7. GENERAL PROVISIONS.

- (a) This Amendment, when recorded, shall be binding upon and inure to the benefit of the parties hereto, their respective grantees, successors in interest, assignees, lessees, and upon any successor municipal authorities of the Village and successor municipalities for a period of twenty (20) years from the date of execution of the Annexation Agreement.
- (b) This Amendment constitutes a covenant running with the land and shall be binding upon and insure to the benefit of the parties hereto and all of their respective grantees, transferees, successors in interest, assignees, and lessees, during the term of the Annexation Agreement.
- (c) This Amendment shall be recorded in the office of the Recorder of Kane County, Illinois.
- (d) If any provision of this Amendment is found by a court of law to be in violation of any applicable local, state or federal law, ordinance or regulation and if a court of competent jurisdiction should declare such provision of this Amendment to be illegal, void or unenforceable such provision shall be severed from this Amendment and this Amendment shall continue in full force and effect as if such provision was not contained herein.
- (e) The corporate authorities for the Village warrant that they have the authority to enter into this Amendment. Owner warrants that the execution of this Amendment has been duly and validly authorized and that the obligations imposed upon Owner herein shall be valid and binding obligations of the Owner. Purchaser warrants that the execution of this Amendment has been duly and validly authorized and that the obligations imposed upon Purchaser herein shall be valid and binding obligations of the Purchaser.
- (f) The caption of paragraphs are intended only for the convenience of the parties and are not to be construed as part of this Amendment or as a limitation of the scope of the particular sections to which they refer.
- (g) This Amendment may be executed in any number of counterparts and duplicate originals, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties to this Amendment have caused it to be executed as of the day and year first above written.

Village:

Village of Huntley, Illinois

By: _____

Its: _____

ATTEST:

By: _____

Its: _____

Owner:

Viking-TDC Huntley, LLC

By: _____

Its: _____

ATTEST:

By: _____

Its: _____

Purchaser:

McDonald's USA, LLC

By: _____

Its: _____

ATTEST:

By: _____

Its: _____

723627.1

STATE OF ILLINOIS)
) ss
COUNTY OF KANE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT _____, as the _____ of the Village of Huntley, an Illinois municipal corporation, personally known to me to be the same 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 own free and voluntary act and as the free and voluntary act of the said corporation.

Given under my hand and Notarial Seal this ____ day of _____, 2013.

Notary Public

STATE OF ILLINOIS)
) ss
COUNTY OF _____

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT _____, personally known to me to be the _____ of Viking-TDC Huntley, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she, as such _____, signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of the said company.

Given under my hand and Notarial Seal this ____ day of _____, 2013.

Notary Public

STATE OF ILLINOIS)
) ss
COUNTY OF _____

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT _____, personally known to me to be the _____ of McDonald's USA, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she, as such _____, signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of the said company.

Given under my hand and Notarial Seal this ____ day of _____, 2013.

Notary Public

EXHIBIT A

THE PREMISES

EXHIBIT B

BICYCLE PATH LOCATION