
ORDINANCE
NUMBER 17-35

**AN ORDINANCE APPROVING THE REZONING OF PROPERTY PURSUANT TO
THE ANNEXATION AGREEMENT BETWEEN THE VILLAGE OF CHATHAM AND
MATTHEW SUMMERS**

DAVE KIMSEY, Village President
AMY DAHLKAMP, Village Clerk

TERRY FOUNTAIN
BRETT GERGER
NINA LINDHORST
RYAN MANN
MATT MAU
PAUL SCHERSCHEL
Village Trustees

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Sorling Northrup – 1 N. Old State Capitol Plaza, Suite 200, Springfield, IL 62705

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AN ORDINANCE APPROVING THE REZONING OF PROPERTY PURSUANT TO THE ANNEXATION AGREEMENT BETWEEN THE VILLAGE OF CHATHAM AND MATTHEW SUMMERS

WHEREAS, the Village of Chatham, Sangamon County, State of Illinois, is a duly organized and existing Village created under the provisions of the laws of the State of Illinois; and,

WHEREAS, Matthew Summers (hereinafter "Owner") is the owner of record of certain real property, legally described on **Exhibit A** to this Ordinance (hereinafter "Property"); and

WHEREAS, on May 18, 2017, Owner filed with the Village Clerk a duly executed petition for annexation that seeks annexation of the Property to the Village; and

WHEREAS, the Board held a hearing on Owner's Petition for Annexation and Annexation Agreement on May 23, 2017, and the Board voted unanimously in favor of approving the Petition for Annexation and Annexation Agreement in accordance with the Annexation Agreement; and,

WHEREAS, the Annexation Agreement is contingent on the Property being zoned I-1 within 45 days of its execution; and,

WHEREAS, Section 158.115 of the Village Code provides that an initial zoning in connection with an Annexation Agreement shall be determined by the Village Board after a hearing is conducted before the Planning Commission in accordance with Section 158.114 of the Village Code; and,

WHEREAS, on June 15, 2017, the Planning Commission held a public hearing and voted unanimously in favor of recommending to approve the zoning request and zone the Property I-1; and,

WHEREAS, the Village Board of Trustees and the President of the Village of Chatham believe it is in the best interests of the Village to zone the Property I-1.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Chatham, Sangamon County, Illinois, as follows:

Section 1. Recitals. The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

Section 2. Description of the Property. The property is located at 4100 Mansion Road and is comprised of approximately 10.917 acres of land. The property is legally described as found in **Exhibit A**.

Section 3. Public Hearing. A public hearing was advertised on May 25, 2017, in the Chatham Clarion and held by the Planning Commission on June 15, 2017, at which time the Planning Commission unanimously recommended approval of the initial zoning requested.

Section 4. Change in Zoning to I-1. The amendment to the Village Zoning Map requested in the Annexation Agreement, outlined herein, and recommended at the June 15, 2017, Zoning Board of Appeals meeting, is hereby granted as follows:

- A. The zoning designation of the Property described in Exhibit A of this Ordinance to I-1 is hereby granted consistent with the Annexation Agreement attached hereto as **Exhibit B**.

Section 5. Severability. In the event a court of competent jurisdiction finds this ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this ordinance and the application thereof to the greatest extent permitted by law.

Section 6. Repeal and Savings Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall

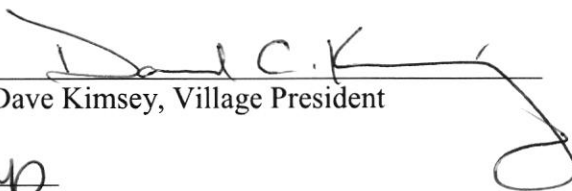
affect any rights, actions, or causes of action which shall have accrued to the Village of Chatham prior to the effective date of this ordinance.

Section 7. 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 this 27 day of June, 2017.

	YES	NO	ABSENT	PRESENT
TERRY FOUNTAIN	X			X
BRETT GERGER	X			X
NINA LINDHORST	X			X
RYAN MANN	X			X
MATT MAU	X			X
PAUL SCHERSCHEL	X			X
DAVE KIMSEY				X
TOTAL	6	0	0	7

APPROVED by the President of the Village of Chatham, Illinois this 27 day of June, 2017.


 Dave Kimsey, Village President

Attest:

 Amy Dahlkamp, Village Clerk

**EXHIBIT A
LEGAL DESCRIPTION**

Part of the East Half of the East Half of the Southeast Quarter of Section 35, Township 15 North, Range 6 West of the Third Principal Meridian, Sangamon County, Illinois, more particularly described as follows:

Beginning at an Iron pin found at the Southeast corner of said Southeast Quarter; thence South 89 degrees 24 minutes 39 seconds West on the South line of said East Half of the East Half of the Southeast Quarter, a distance of 665.90 feet to a cotton gin spindle found at the Southwest corner of said East Half of the East Half of the Southeast Quarter, thence North 00 degrees 45 minutes 53 seconds West on the West line of said East Half of the East Half of the Southeast Quarter, a distance of 713.96 feet to an iron pin set; thence North 89 degrees 24 minutes 39 seconds East, a distance of 666.27 feet to an iron pin set on the East line of said East Half of the East Half of the Southeast Quarter; thence South 00 degrees 44 minutes 05 seconds East on said East line, a distance of 713.96 feet to the point of beginning. Containing 475,555.431 square feet (10.917 acres), more or less.

EXHIBIT B

ANNEXATION AGREEMENT

Pursuant to legislative authorization found in Article 11 Division 15.1 of the Illinois Municipal Code as amended, (65 ILCS 5/11-15.1-1 et seq.) and for and in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned Village of Chatham, Illinois, a Municipal Corporation, hereinafter referred to as "Village" and Matthew Summers, hereinafter referred to as "Owner" enter into this Annexation Agreement ("Agreement") for the annexation of property into the Village.

WHEREAS, Owner is the owner of record of the premises hereinafter described on **Exhibit A**, which is attached hereto and made a part hereof by this reference; and,

WHEREAS, the Owner is desirous of having said premises annexed to the Village and the Village is desirous of annexing said premises; and,

WHEREAS, said premises is not within the corporate limits of any municipality; and,

WHEREAS, said premises is currently contiguous to the Village; and,

WHEREAS, the Owner is desirous of having said premises zoned I-1 upon annexation to the Village; and,

WHEREAS, the parties wish to set forth certain other obligations and requirements for the annexation as set forth in this Agreement; and,

WHEREAS, all notices required to be given under the Illinois Municipal Code to enter into this Agreement, have been given.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the receipt and sufficiency of which are hereby acknowledged, the Village and Owner agree as follows:

1. ANNEXATION.

A. Matthew Summers shall file with the Village a duly executed Petition for Annexation, in accordance with the provisions of Section 7-1-8 of the Illinois Municipal Code (65 ILCS 5/7-1-8).

B. The Village and upon the submittal of a duly executed Petition for Annexation, shall pass an Ordinance annexing the Property into the Village.

C. Upon execution of this Agreement, the Village shall permit the Owner to receive utilities service from the Village, pursuant to the Village of Chatham Code of Ordinances ("Village Code").

D. During the term of this Agreement, the Village shall charge Owner utility rates equivalent to the rate charged to similar properties situated within the corporate limits of the Village.

2. ZONING.

Owner, as a condition of this Agreement, desires that the Property be zoned I-1. Within 45 days of annexation, the Village agrees to zone the property I-1, or the classification that nearest resembles the zoning classification in effect at the time of annexation to the Village, subsequent to, and subject to, any public hearings required by the Village Code and the Illinois Municipal Code. If the Village Board does not approve a zoning change of the property to I-1 within 45 days of annexation, then Owner shall be free to de-annex from the Village.

3. OBLIGATIONS OF VILLAGE & OWNER.

With regard to the annexation, and development of the premises, the installation of public improvements within and serving the premises; and the use and development of the premises during the life of this agreement, the following shall apply to the Village and Owner:

- A. Village shall rezone the Property from P-1 (pre-urbanized) to I-1 (light industrial) within 45 days of annexation.
- B. Upon Annexation, Village shall issue all building permits in accordance with the development of the Property as a storage facility. Village shall issue the permits as soon as practicable after Annexation, and in no case shall Village withhold the permits due to the initial zoning classification of the Property.
- C. Owner shall develop the Property as a storage facility.
- D. Owner shall cause the storage facility to be lit during the hours of darkness with downward facing lighting on the storage facility buildings.
- E. Owner shall cause the storage facility to be screened with landscaping and a fence on the south side of the Property. The landscaping shall form a visual barrier to the Property.
- F. Owner shall cause the Property to be screened on the east and west perimeter by erecting storage facility buildings along those sides.
- G. Owner shall cause the storage facility to be gated and locked continuously.
- H. Owner shall cause the facility to have Portland cement driving areas from Mansion Road up to and including the south side of the storage units. The Owner shall cause the facility to have either Portland cement or HMA (hot mix asphalt) driving or parking areas completed after each construction phase of the storage facility buildings is completed. The use of HMA can be used north of the initial

Portland cement driveway. Subject to the Village's approval, the cement driving and parking areas need not be completed in areas where heavy machinery will be used to construct the next phase. It is understood by the parties that if further construction is not immediately contemplated, then all driving and parking areas shall be paved with Portland cement.

- I. Owner shall cause the outside storage items to be concealed from public view from outside the Property.
- J. Owner shall cause the storage facility buildings to be constructed using metal components and code compliant concrete footings. The color of the exterior roofing components must be beige, white, or gray.
- K. Owner shall cause all three-sided storage buildings (those buildings that do not have front roll-up doors) to be shielded from public viewing.
- L. Owner shall cause the retention of storm water to be provided at the north-east corner of the Property subject to the Owner's and Village's engineering review and acceptance. Field tile that is encountered during construction shall be rerouted and connected outside the building and structure area.
- M. Owner shall cause the length and width of the driveway apron along Mansion Road to be increased to allow for tractor-trailer and RV turning radii on Mansion Road. Turn lane and proper channelization and tapers shall be provided to accommodate the anticipated vehicles entering and exiting the site.
- N. Building permits for future phases will be withheld by the Village if the current phases are not completed.

4. OBLIGATION TO DEVELOP PER CODE.

In the construction and use of improvements on the subject property the Owner shall comply with all zoning subdivision, building, mechanical and other applicable codes and ordinances of the Village of Chatham in effect at that time as well as the obligations contained within this Agreement.

5. PHASED CONSTRUCTION

The Owner contemplates a phased construction of the property in multiple plats or phases for the property described in **Exhibit A** over a period of time dictated by the development interest in the property. No specific number of phases or development period is determined at this time; however, each phase shall complement the next phase of construction. The phases shall be included on the site plan. Each phase of construction shall last approximately two to three months. The completion of each phase shall be marked by the beginning of construction on the next phase. The Village agrees that concrete driveways will be completed between each new building in each phase.

All south side perimeter fencing, drainage improvements, and roadway aprons must be completed before construction of the initial plat or phase begins. Perimeter fencing for the entire development shall be completed within 4 years of ground breaking or commencement of construction, or when at least 60% of the construction to the development is completed. Owner shall furnish an executed copy of the drainage easement to the Village.

6. COVENANTS AND AGREEMENTS

The covenants and agreements contained in the Agreement shall be deemed to be covenants running with the land during the term of this Agreement, shall inure to the benefit and be binding upon the heirs, successors and assigns of the parties hereto.

7. TERM

This Agreement shall survive the annexation of the Property to the Village and govern the development of the Property.

8. NOTICES

Any and all notices required or desired to be given hereunder shall be in writing and shall be delivered personally or sent via certified or registered mail, postage pre-paid and addressed as follows:

Village of Chatham
Attn: Village Administrator
116 E. Mulberry Street
Chatham, IL 62629

Matthew Summers
1920 Southbrooke Rd.
Jacksonville, IL 62650

or to such other person or address as a party may designate in a like manner.

9. ADOPTION OF ORDINANCES

The Village agrees to adopt such ordinances as may be required to give legal effect to the matters contained in this Agreement.

10. GENERAL PROVISIONS

The following general provisions shall apply to this Agreement:

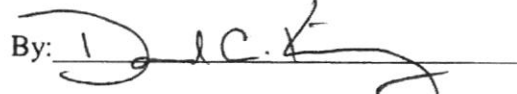
- A. Time of the Essence. Time is of the essence in the performance of this Agreement.
- B. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other rights, remedies, and benefits allowed by law.
- C. Non-Waiver. The Village shall be under no obligation to exercise any of the rights granted to it in this Agreement. The failure of the Village to exercise at any time any right granted to the Village shall not be deemed or construed to be a waiver of that right, nor shall the failure void or affect the Village's right to enforce that right or any other right.
- D. Consents. Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent shall be in writing.
- E. Governing Law. This Agreement shall be governed by, and enforced in accordance with, the internal laws, but not the conflicts of laws rules, of the State of Illinois.
- F. Severability. It is hereby expressed to be the intent of the parties to this Agreement that should any provision, covenant, agreement, or portion of this Agreement or its application to any person or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application to any person or property shall not be impaired thereby, but the remaining provisions shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.
- G. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matter of this Agreement.
- H. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.
- I. Exhibits. The Exhibits attached to this Agreement are, by this reference, incorporated in, and made a part of this Agreement. In the event of a conflict

between an exhibit and the text of this Agreement, the text of this Agreement shall control.

- J. Amendments and Modifications. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.
- K. Changes in Laws. Unless otherwise provided in this Agreement, any reference to the Requirements of Law shall be deemed to include any modifications of, or amendments to, the Requirements of Law that may occur in the future.
- L. Authority to Execute. The Village hereby warrants and represents to the Owner that the Persons executing this Agreement on its behalf have been properly authorized to do so by the Corporate Authorities. The Owner hereby warrants and represents to the Village (i) that he is the record and beneficial owner of fee simple title to the Property, (ii) except for a mortgage on the property, no other person has any legal, beneficial, contractual, or security interest in the Property and that annexing the property is not a violation of the security interests, (iii) that he has the full and complete right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth in this Agreement and to bind the Property as set forth in this Agreement, (iv) that all legal actions needed to authorize the execution, delivery, and performance of this Agreement have been taken, and (v) that neither the execution of this Agreement nor the performance of the obligations assumed by the Owner will (a) result in a breach or default under any agreement to which the Owner is a party or to which it or the Property is bound or (b) violate any statute, law, restriction, court order, or agreement to which the Owner or the Property is subject.
- M. Enforcement. The parties to this Agreement may, in law or in equity, by suit, action, mandamus, or any other proceeding, including without limitation specific performance, enforce or compel the performance of this Agreement; provided, however, that the Owners agree that they will not seek, and does not have the right to seek, to recover a judgment for monetary damages against the Village, or any of its elected or appointed officials, officers, employees, agents, representatives, engineers, or attorneys, on account of the negotiation, execution, or breach of this Agreement.
- N. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any person shall be made, or be valid, against the Village or the Owner.
- O. Recording. After the Owner has paid to the Village an amount sufficient to cover the cost of recording this Agreement, all necessary plats, the affidavit of service of notice as required by Section 7-1-1 of the Illinois Municipal Code, 65 ILCS 5/7-1-1, and the Annexation Ordinance, the Village shall promptly cause this Agreement to be recorded in the office of the Recorder of Sangamon County.

EXECUTED and ADOPTED this 23 day of May, 2017, at Chatham, Illinois.

VILLAGE OF CHATHAM

By: 
David Kimsey, Village President

Attest:

By: 
Village Clerk

OWNER:


Matthew Summers