

ORDINANCE NO. O-2018-30

AN ORDINANCE AUTHORIZING THE SIGNING OF AN ANNEXATION AGREEMENT - 1409  
GABLES BOULEVARD - KENNEDY

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 May 29, 2018 to consider the terms and conditions of the proposed Annexation Agreement; and

WHEREAS, the Annexation Agreement dated June 4, 2018, between the City and John and Kristin Kennedy ("Owners"), is the direct result of deliberations on the proposed annexation pursuant to the public hearing and other meetings before the City Council and City Staff.

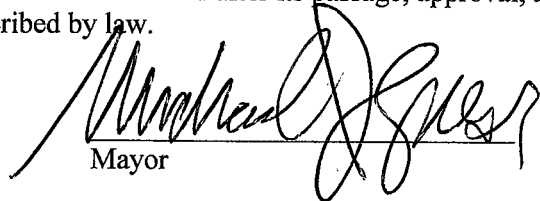
NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Mayor of the City is authorized to sign and the City Clerk is directed to attest to the Annexation Agreement between the City of Wheaton and Owners. A copy of the Annexation Agreement is attached herein as Exhibit 'B'.

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

Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.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

Roll Call Vote

Ayes: Councilman Suess  
Councilman Barbier  
Councilwoman Fitch  
Councilman Prendiville  
Mayor Gress  
Councilman Rutledge  
Councilman Scalzo

Nays: None

Absent: None

Motion Carried Unanimously

Passed: June 4, 2018  
Published: June 5, 2018

**EXHIBIT 'A'**

PARCEL 1: LOT 2 OF PROPERTY OWNER'S DIVISION OF LOT 1 OF HADLEY ESTATES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF PROPERTY OWNER'S DIVISION RECORDED MAY 15, 1947, AS DOCUMENT 521041, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2: THE WESTERLY 80.0 FEET MEASURED ON THE SOUTHERLY LINE OF TRACT 2 (EXCEPT THE NORTHERLY 317.90 FEET AS MEASURED ON THE WESTERLY LINE OF SAID TRACT 2) OF HADLEY ESTATES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 20, 1943, AS DOCUMENT 456070, IN DUPAGE COUNTY, ILLINOIS.

P.I.N. 05-20-400-017

The subject property is commonly known as 1409 S. Gables Boulevard, Wheaton, IL 60189.



**EXHIBIT 'B'**

**ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT, made and entered into this 4<sup>th</sup> day of June, 2018 between the City of Wheaton, Illinois, an Illinois municipal corporation, located in DuPage County, State of Illinois ("City"), and John and Kristin Kennedy ("Owners").

WITNESSETH

WHEREAS, the Owners have an interest in, or control, the real estate comprised of a parcel of property approximately .741 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 Owners that all of the Subject Property be annexed to the City under the terms and conditions of this Agreement; and

WHEREAS, the Owners desire to construct a single-family residence on the Subject Property substantially in accordance with and pursuant to the preliminary site grading plans prepared by Lambert and Associates, sheets 1-2 dated April 3, 2018, and the preliminary building elevations, sheets 1-2 dated April 3, 2018, hereinafter referred to as "Building Plans" which are attached to and incorporated into this Agreement as Exhibit "B"; 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-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, 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 Owners have 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 "C". 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-3 Residential zoning district.

**5. SANITARY SEWER FACILITIES.** The Owners shall connect the new single family residence on the Subject Property to the sanitary sewer main of the City located within the Gables Boulevard right-of-way. The Owners shall pay all 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 sewer main.

**6. STORM WATER FACILITIES.** The Owners agree to design and construct suitable storm water facilities for the Subject Property which comply with the requirements and standards contained in Chapter 34 of the Wheaton City Code and all other applicable Federal, State, and local statutes and ordinances governing stormwater management.

**7. WATER FACILITIES.** The Owners shall connect the new single family residence on the Subject Property to the water main of the City located within the Gables Boulevard right-of-way in accordance with City Code. The Owners 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.

**8. BUILDING PLANS.** The Owners shall submit to the City, plans for the new single-family residence to be constructed on the Subject Property. A building permit shall be obtained and the appropriate permit fee paid as required by the Wheaton City Code.

**9. 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.

**10. 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, 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.

**11. TREE PRESERVATION.** Prior to the issuance of a Site Development Permit, the Owners 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. The Owners shall cause to be planted street trees planted in accordance with Section 62-294 of the Wheaton City Code and subject to the approval of the Director of Engineering.

**12. 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.

**13. AMENDMENT OF ANNEXATION AGREEMENT.** This Annexation Agreement, and any exhibit attached hereto, may be amended pursuant to the provisions of Chapter 18 of the City Code.

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

**15. 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.



**16. 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.

**17. INDEMNIFICATION.** Owners shall indemnify and hold the City harmless from all injuries to persons and property which arise due to the actions of the Owners, its agents, assigns, employees, contractors, and subcontractors. Owners 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 their actions and conduct. The Owners shall provide the City with certificates of insurance as required by any Subdivision Improvement Agreement hereafter entered between the City and the Owners.

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

**19. 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. John and Kristin Kennedy**

2112 N. Summit Street  
Wheaton, IL 60187

**B. City of Wheaton.**

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

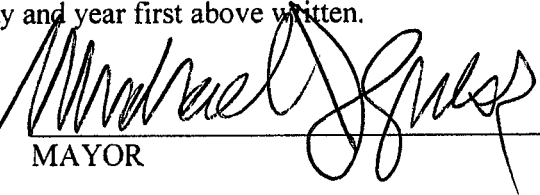
**20. RECORDING.** This Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois at the expense of the Owners.

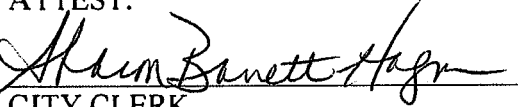
**21. SIDEWALK.** Prior to the issuance of an occupancy permit for the house, the Owners shall construct a public sidewalk along the Gables Boulevard frontage of the Subject Property in accordance with Chapter 58, Article II of the Wheaton City Code.

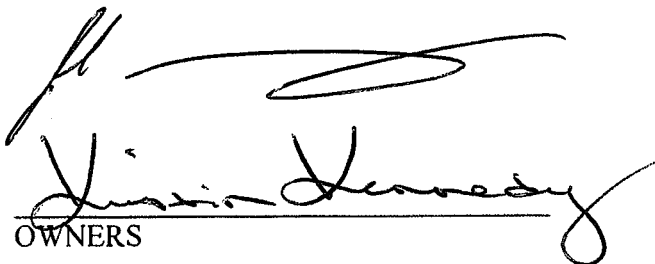
**22. CONDITION OF PUBLIC IMPROVEMENTS.** The City shall have no obligation of any kind with respect to the public improvements presently existing within Gables Boulevard adjacent to the Subject Property. Once the Subject Property is annexed to the City, the City shall maintain the public improvements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

**23. PLAT OF CONSOLIDATION.** Prior to the issuance of a building permit for the house, a plat of consolidation meeting the requirements of Chapter 62 of the Wheaton City Code shall be submitted for City Council approval.

IN WITNESS WHEREOF, the Corporate authorities and Owners 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.

By   
MAYOR

ATTEST:  
  
CITY CLERK

  
OWNERS

ATTEST:  
  
\_\_\_\_\_

**EXHIBIT A**

**PLAT OF ANNEXATION**

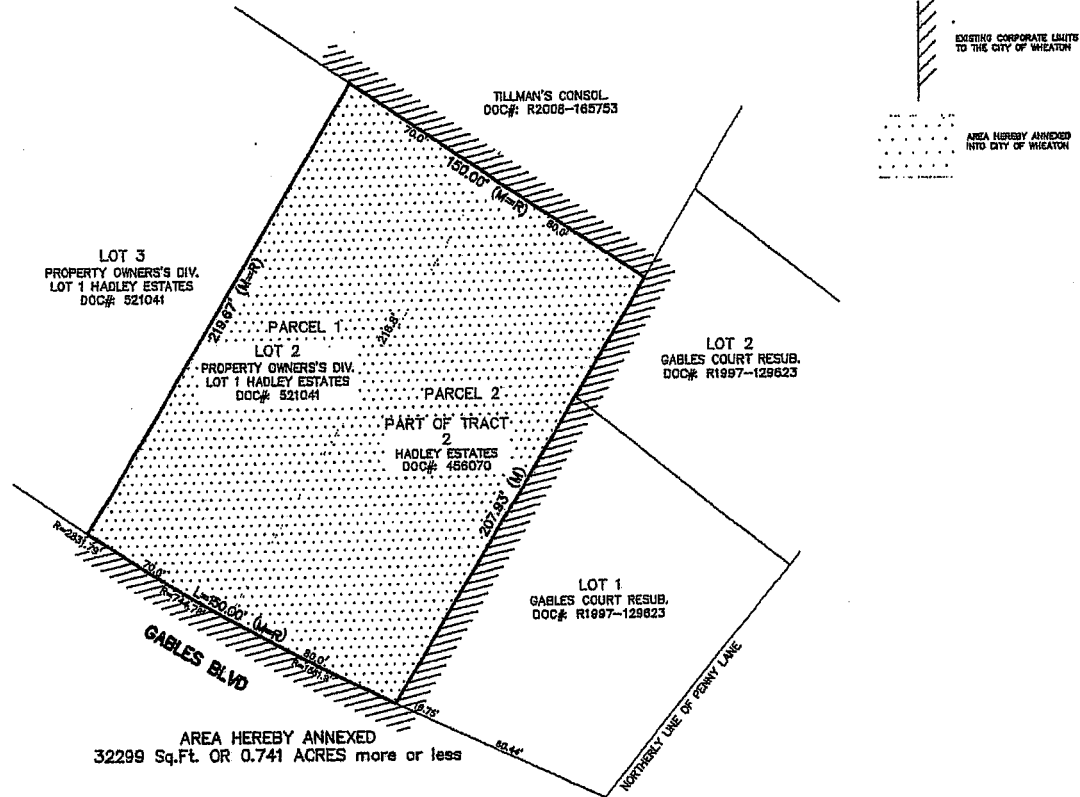
# PLAT OF ANNEXATION TO THE CITY OF WHEATON DUPAGE COUNTY, ILLINOIS.

**LEGAL DESCRIPTION OF THE LAND HEREBY ANNEXED**

PARCEL 1: LOT 2 OF PROPERTY OWNER'S DIVISION OF LOT 1 OF HADLEY ESTATES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF PROPERTY OWNER'S DIVISION RECORDED MAY 15, 1947, AS DOCUMENT 521041, IN DUPAGE COUNTY, ILLINOIS.

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ADDRESS: 1409 S GABLES BOULEVARD, WHEATON, ILLINOIS  
PIN: 05-20-400-017



AREA HEREBY ANNEXED  
32299 Sq.Ft. OR 0.741 ACRES more or less



**LAND SURVEYOR'S CERTIFICATE**

STATE OF ILLINOIS }  
COUNTY OF DUPAGE } S.S.  
I, ROBERT V. LAMBERT, LAND SURVEYOR, LICENSE NO. 1840, DO HEREBY CERTIFY THAT I, ROBERT V. LAMBERT, A LICENSED PROFESSIONAL LAND SURVEYOR, HAVE PLATTED FOR THE PURPOSE OF ANNEXATION TO THE CITY OF WHEATON THE PROPERTY SHOWN AND DESCRIBED ON THE ANNEXED PLAT, WHICH TO THE BEST OF MY KNOWLEDGE AND BELIEF, IS A CORRECT REPRESENTATION THEREOF, GIVEN UNDER MY HAND AND SEAL, AT WHEATON, ILLINOIS  
THIS DAY 20TH DAY OF MARCH, A.D., 2018

ILLINOIS LAND SURVEYOR NO. 1840 LICENSE EXPIRES 11/30/18  
ILLINOIS DESIGN FIRM NO.184007250

OWNED BY JOHN BERRYBY FILE NO.12-547

<p><b>LAND SURVEYING AND CIVIL ENGINEERING</b> <b>LAMBERT &amp; ASSOCIATES</b> 935 W. LIBERTY DR WHEATON, IL 60187 P: (630)853-8331 F: (630)853-8389 E: INFO@LAMBERT-SURVEY.COM</p>	<p><b>LAND TECHNOLOGY</b> 3822 W. MAIN STREET McHENRY, IL 60050 P: (815)363-9200 F: (815)363-9223 E: LANDTECH@LMT-PE.COM</p>
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**OWNER'S CERTIFICATE**

STATE OF ILLINOIS }  
COUNTY OF DUPAGE } SS  
THE UNDERSIGNED: \_\_\_\_\_  
AND  
DO HEREBY CERTIFY THAT HE/SHE/they ARE THE OWNER(S) OF THE PROPERTY DESCRIBED HEREON AND HAVE CAUSED THE SAME TO BE PREPARED FROM EXISTING PLATS AND RECORDS FOR THE PURPOSE OF ANNEXATION TO THE CITY OF WHEATON AS SHOWN BY THE PLAT HEREON DRAWN.  
DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2018  
BY: \_\_\_\_\_  
BY: \_\_\_\_\_

**OWNER'S NOTARY CERTIFICATE**

STATE OF ILLINOIS }  
COUNTY OF DUPAGE } SS  
I, \_\_\_\_\_ A NOTARY PUBLIC IN AND FOR THE SAID COUNTY AND STATE, DO HEREBY CERTIFY THAT THE PERSON OR PERSONS WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT DID APPEAR BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THAT HE/SHE/they ARE THE OWNER(S) OF THE PROPERTY DESCRIBED HEREON AND THAT HE/SHE/they SIGNED, SEALED AND DELIVERED THE SAID INSTRUMENT AS HIS/HER/their OWN FREE AND VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN SET FORTH.  
DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2018  
NOTARY PUBLIC

**CITY COUNCIL CERTIFICATE**

STATE OF ILLINOIS }  
COUNTY OF DUPAGE } SS  
THE ANNEXED PROPERTY SHOWN ON THE ABOVE PLAT OF ANNEXATION IS IDENTIFIED AS THAT INCORPORATED AND MADE PART OF THE CITY OF WHEATON BY ORDINANCE NO. \_\_\_\_\_ ADOPTED BY THE COUNCIL OF SAID CITY ON THE \_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2018.  
BY: \_\_\_\_\_ MAYOR BY: \_\_\_\_\_ CLERK

**RECORDER'S CERTIFICATE**

STATE OF ILLINOIS }  
COUNTY OF DUPAGE } SS  
THIS INSTRUMENT, NO. \_\_\_\_\_ WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF DUPAGE COUNTY, ILLINOIS ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ A.D. \_\_\_\_\_ AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ A.M.  
\_\_\_\_\_  
COUNTY RECORDER

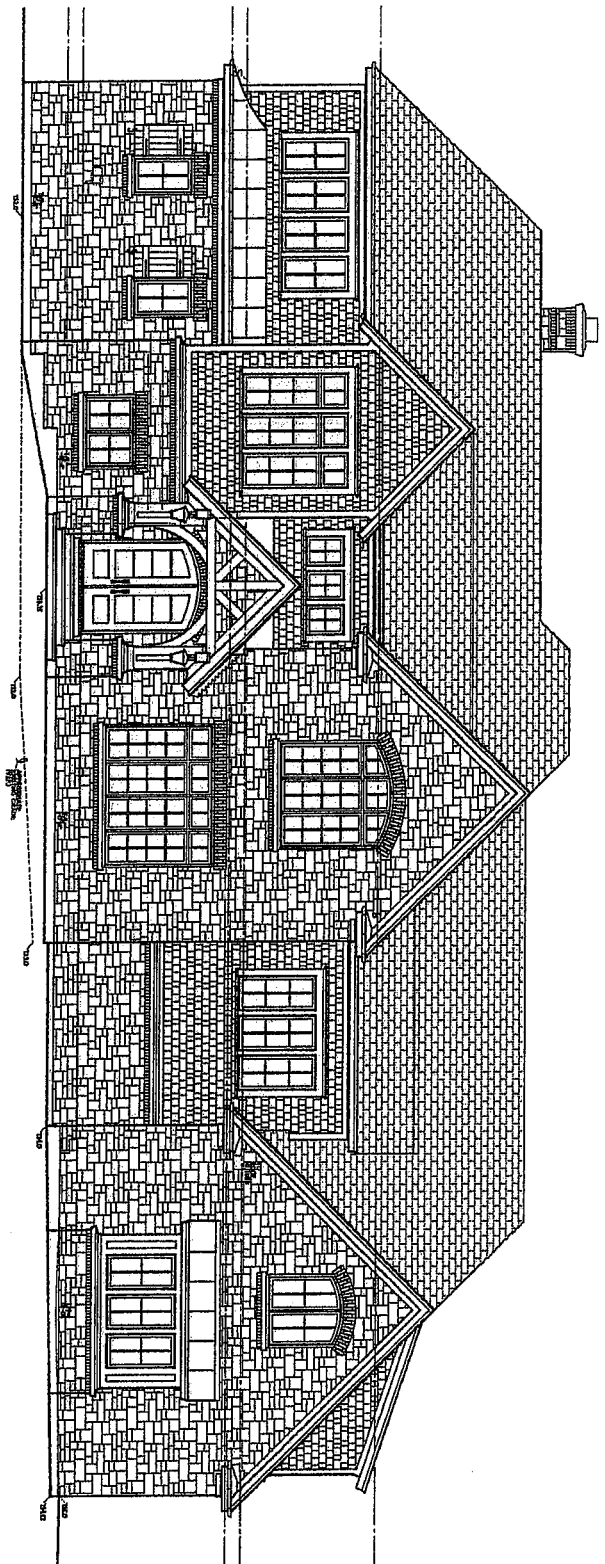
SUBMITTED BY AND RETURN TO:  
CITY OF WHEATON  
303 W WESLEY STREET  
WHEATON, IL, 60187

**EXHIBIT B**

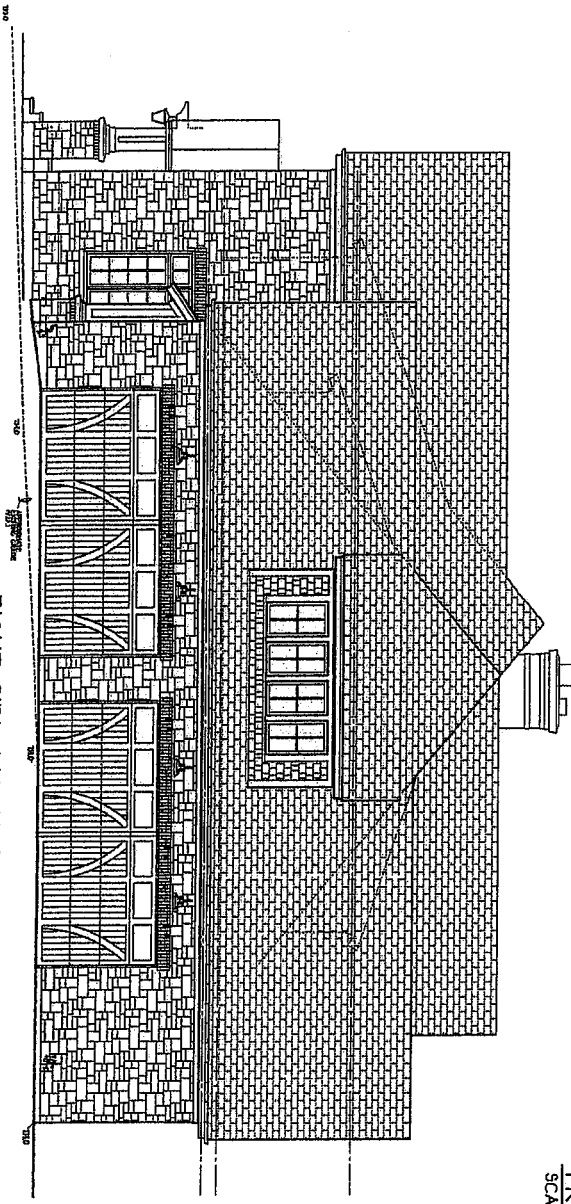
**BUILDING PLANS**







FRONT ELEVATION  
SCALE: 1/8" = 1'-0"



RIGHT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"

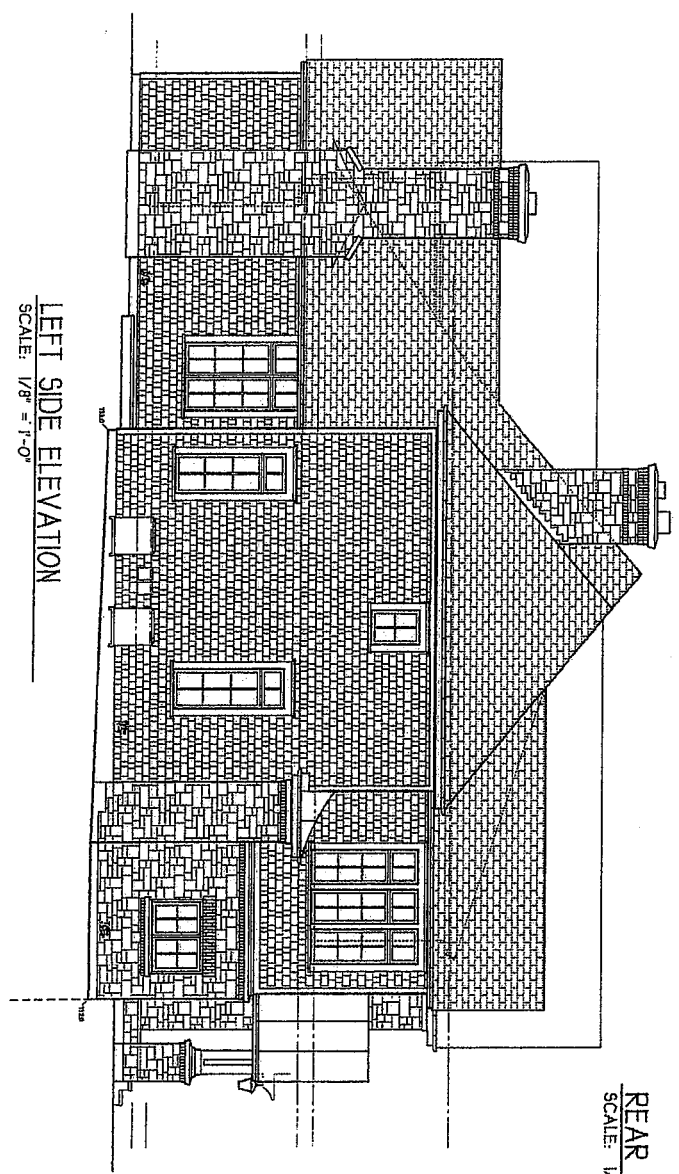
PROPOSED NEW RESIDENCE FOR:  
**THE KENNEDY FAMILY**  
1409 S. GABLES BLVD.  
WHEATON, ILLINOIS

STATE OF ILLINOIS  
RECORDS AND CLERK  
REC'D IN  
INDEXED  
MAY 11 1911

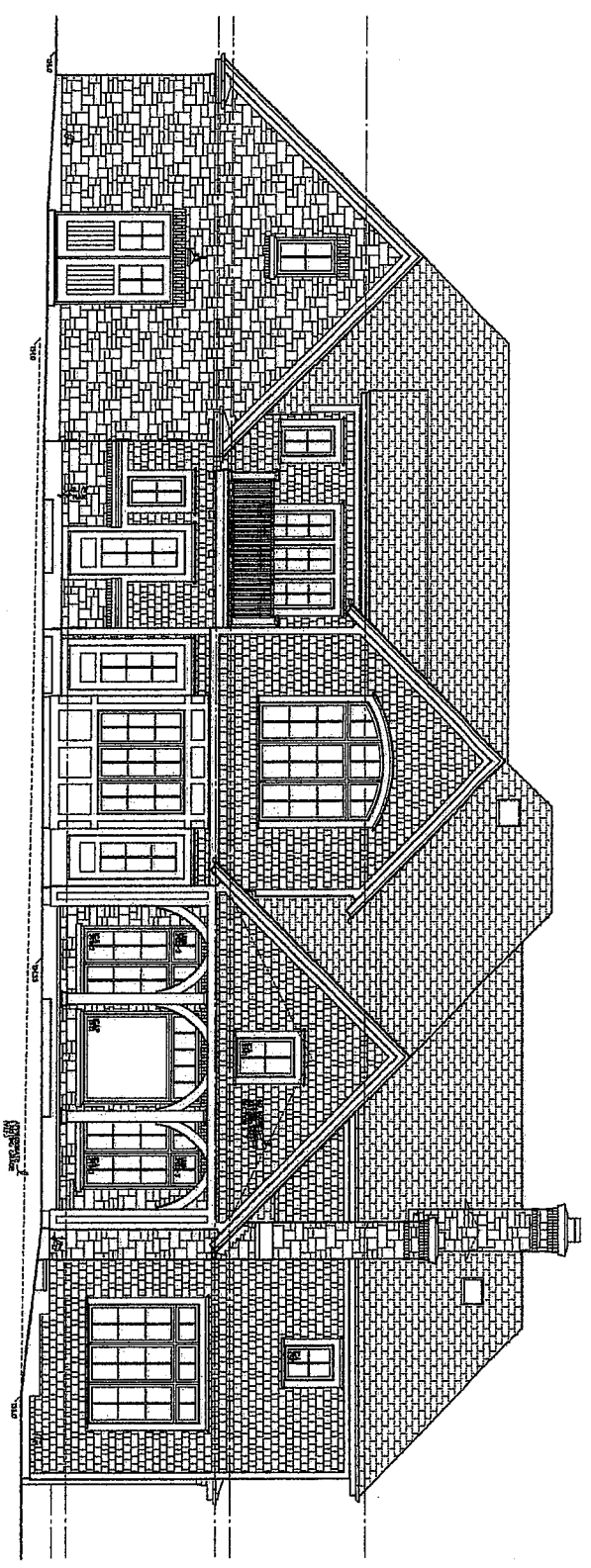
Contractor	_____
Architect	_____
Engineer	_____
City	_____
State	_____



LEFT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"



REAR ELEVATION  
SCALE: 1/8" = 1'-0"



DATE	1/25/2011
BY	JK
PROJECT	PROPOSED NEW RESIDENCE FOR THE KENNEDY FAMILY
CLIENT	THE KENNEDY FAMILY
ADDRESS	1409 S. GABLES BLVD.
CITY	WHEATON, ILLINOIS
STATE	ILLINOIS
COUNTY	DEKALB
ZONING	R-1
OWNER	THE KENNEDY FAMILY
DESIGNER	JAMES K. KENNEDY
DATE	1/25/2011
SCALE	1/8" = 1'-0"

PROPOSED NEW RESIDENCE FOR:  
**THE KENNEDY FAMILY**  
1409 S. GABLES BLVD.  
WHEATON, ILLINOIS

STATE OF ILLINOIS REGISTERED ARCHITECT NO. 00123456	
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**EXHIBIT C**

**PETITION FOR ANNEXATION**

Kennedyjohn@comcast.net  
Kristin.Kennedy@comcast.net

CITY OF WHEATON  
PETITION FOR ANNEXATION

To: THE WHEATON CITY COUNCIL

Petitioners on oath states as follows:

1. That they are the owners of record of all of the land within the property described herein.
2. That (they are the only) or (there are other) electors residing thereon. (Circle the appropriate answer).
3. That no portion of the property is within the corporate limits of any municipality.

4. That the property which petitioners desire to have annexed to the City of Wheaton is described as follows:

1409 S. Gables Blvd. PIN # 05-20-400-017  
Legal description attached

5. That this petition shall be in full force and effect from and after the date hereof and until the property is contiguous and annexed to the City of Wheaton.

WHEREFORE, the applicant petitions that the property be annexed by ordinance to the City of Wheaton, Illinois, in accordance with the appropriate statutes.

The undersigned on oath states that he/she has read the foregoing petition for annexation, has knowledge of the allegations contained therein, and that said allegations are true and correct to the best of his/her knowledge.

Date: 4/11/18 20 18

Owner(s) of record of said property

Name: John & Kristin Kennedy Signature: [Signature]  
Address: 2112 N. Summit St Wheaton, IL 60187

Tel. No.: 630-752-4001 Fax No.: \_\_\_\_\_

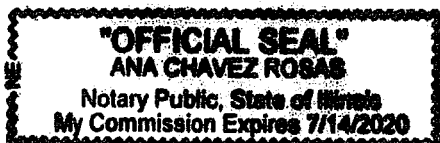
Elector(s) residing on said property

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Subscribed and sworn before me this 11<sup>th</sup> day of April 20 18

[Signature]  
Notary Public



My Commission Expires 11/4/2020  
Nancy Rubio, State of Illinois  
ANA CHAVEZ ROSAS  
"OFFICIAL SEAL"