

Request for City Council Action

Date: June 9, 2015

Agenda Section: Consent No. 5	Originating Department: Planning Services/Legal
Item: An Ordinance Approving an Annexation Agreement between the City of Carbondale and the Owners of the Country Village Subdivision No. 5.9	Approved:

Background and Summary:

The background information for this agenda item was previously reviewed as part of the public hearing on the Annexation Agreement between the City of Carbondale and the owners of the Country Village Subdivision. A copy of the Ordinance including the Annexation Agreement is attached for the City Council’s review. The proposed annexation agreement contains the following provisions:

1. The City agrees to connect all structures with sanitary sewer needs to the municipal sanitary sewer system.
2. The owners agree to annex the property to the City when the property becomes contiguous.

Additional Information:

1. *Constituent/Advisory Body Impact:* A notice of public hearing for the Annexation Agreement was published in the Southern Illinoisan newspaper on May 24, 2015. A public hearing on the proposed annexation agreement was conducted earlier on this City Council agenda.
2. *Financial Impact:* Upon the annexation of the property, the community may realize an expanded tax base.
3. *Staff Impact:* Upon annexation, the City may provide services to the subdivision. Staff would be responsible for issuing all applicable permits.
4. *City Goals:* The proposed Annexation Agreement is consistent with the City Council’s policy of not providing sanitary sewer connections without a binding agreement for annexation.

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager’s Approval Obtained
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Council Action: Motion by _____ 2nd by _____ to _____

Recommended Action:

It is recommended that the City Council “move to approve the Ordinance authorizing the execution of an annexation agreement between the City of Carbondale and the owners of the County Village Subdivision.”



CITY OF CARBONDALE, ILLINOIS

ORDINANCE NO. 2015-___

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT
WITH THE OWNERS OF THE COUNTRY VILLAGE SUBDIVISION

ADOPTED BY THE CITY COUNCIL

OF THE CITY OF CARBONDALE, ILLINOIS

THE 9th DAY OF JUNE, 2015

Published in pamphlet form by authority of the City Council of the City of Carbondale, Jackson County, Illinois, this 10th day of June, 2015.

CERTIFICATE OF PUBLICATION

I, Jennifer Sorrell, the duly qualified and acting City Clerk of the City of Carbondale, Illinois, and the official custodian of the records of said City, do hereby certify that this Ordinance was published in pamphlet form by authority of the City Council on the 10th day of June, 2015

Jennifer Sorrell, City Clerk
City of Carbondale, Illinois

ORDINANCE NO. 2015-___

**AN ORDINANCE AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT
WITH THE OWNERS OF THE COUNTRY VILLAGE SUBDIVISION**

WHEREAS, the City of Carbondale, Illinois, is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and,

WHEREAS, pursuant to Article VII, Section 6 (a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and,

WHEREAS, an annexation agreement has been negotiated relative to property owned by Kimberly Hall, both personally and as successor for the Country Village Homeowner's Association; TLM, LLC; TP & MP, LLC; and,

WHEREAS, the statutory procedures provided in Section 11-15.1-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-15.1-1 et seq., as amended, for the execution of said annexation agreement have been fully complied with; and,

WHEREAS, the owners of record of the subject property are ready, willing, and able to enter into said agreement and to perform the obligations as required thereunder; and,

WHEREAS, it is in the best interests of the City of Carbondale, Jackson County, Illinois, that the annexation agreement be entered into.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE, ILLINOIS AS FOLLOWS:

Section 1. That the Mayor is hereby authorized and directed to execute and the City Clerk of the City of Carbondale is authorized to attest on behalf of the City of Carbondale, an annexation agreement, which is attached hereto as Exhibit A, incorporated herein by reference and hereby made a part hereof.

Section 2. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

Section 3. The repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date thereof. The provisions of this Ordinance, insofar as they are the same or substantially the same as those of any prior ordinance shall be construed as continuation of said prior ordinance.

Section 4. That it is intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section 5. That the City Council of the City of Carbondale finds that the subject matter of this Ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to the Home Rule Powers of the City of Carbondale pursuant to the provisions of Article VII, Section 6(a) of the 1970 Illinois Constitution.

Section 6. That this Ordinance shall be known as Ordinance No. 2015-_____ of the City of Carbondale, Illinois, and shall be in full force and effect from and after its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
John M. Henry, Mayor

ATTEST: _____
Jennifer Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

LEGAL DESCRIPTION REVIEWED BY:

Travis Taylor, Planner

Exhibit A



ANNEXATION AGREEMENT

THIS AGREEMENT, made and entered into the ____ day of _____, A.D., 2015, by and between the CITY OF CARBONDALE, ILLINOIS, (hereinafter referred to as the "CITY"), a municipal corporation, and TLM, LLC; TP & MP, LLC; and Kimberly Hall, both personally and as successor for the Country Village Homeowner's Association; (hereinafter referred to as the "OWNERS").

WITNESSETH:

WHEREAS, the OWNERS are the OWNERS of record to certain real property, the legal description of which is attached hereto and made a part hereof as Exhibit A (which real estate is hereinafter referred to in its entirety as "Tract A"); and,

WHEREAS, Tract A is not contiguous to the city limits of the City of Carbondale, but it is anticipated it will become contiguous to the CITY in the future; and,

WHEREAS, the CITY desires to annex Tract A to the City as soon as it becomes contiguous to the city limits; and,

WHEREAS, the OWNERS desire to connect the property within the Country Village Subdivision to the City of Carbondale Sanitary Sewer System; and,

WHEREAS, the City of Carbondale is a home rule unit as provided by Article VII of the 1970 Constitution for the State of Illinois; and,

WHEREAS, the CITY, after due and careful consideration, has concluded that the annexation of said real estate to the City on the terms and conditions hereinafter set forth would further the growth of the City, enable the City to control the development of the area, and subserve the best interests of the City; and,

WHEREAS, a proposed annexation agreement in substantially the same form as this Agreement was submitted to the City Council of the City of Carbondale and a public hearing was held on the 9th day of June, 2015, pursuant to notice, as provided by State Statute;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties hereby agree as follows:

Section 1. This Agreement is made pursuant to and in accordance with the provisions of Section 11-15.1-1 et. seq., of the Illinois Municipal Code, 65 ILCS 5/11-15.1-1 et seq., and Article VII of the Constitution of the State of Illinois.

Section 2. The OWNERS warrant that they are the sole owners of Tract A.

Section 3. The OWNERS, their heirs, successors, or assigns, agree to annex Tract A to City of Carbondale, upon said property becoming contiguous to the City through interim annexation or annexations of other territory to the City. Said OWNERS shall, upon contiguity of the property to the City, submit a petition to annex bearing the signatures of the OWNERS and all eligible electors residing on the property. In order to facilitate securing the electors' signatures,

the OWNERS shall require in all leases, rental agreements, or deeds a condition requiring the eligible electors to sign an annexation petition when needed to comply with this Agreement.

Section 4. The CITY agrees to connect the property identified on Tract A to the City of Carbondale's Sanitary Sewer System.

Section 5. This Agreement shall not affect the OWNERS' liability for any special assessment, sewer connection fees or sewer charges applicable to Tract A.

Section 6. This Agreement shall be recorded by the City Clerk in the office of the County Recorder of Jackson County.

Section 7. This Agreement shall be construed as a covenant running with the land, and the CITY and the OWNERS, jointly or severally, may either in law or in equity by suit, action, mandamus or other proceeding, enforce and compel performance of this Agreement.

Section 8. This Annexation Agreement shall be binding on and insure to the benefit of the parties hereto, their heirs and assigns, any lessee of the property, any successor owners of land subject to this Agreement, any successor municipal authorities of the City and any successor municipalities for a period of twenty (20) years from the date of execution of said Agreement; provided that the City may renew said Agreement for an additional twenty (20) year period by giving at least sixty (60) days' notice of said extension of the agreement, in writing, prior to the expiration of the initial twenty (20) year term.

Section 9. Should any Section of this Annexation Agreement be held invalid under the laws of the State of Illinois or the United States, the parties agree that all remaining Sections not found to be invalid shall continue to be in full force and effect and shall be enforceable by either party.

IN WITNESS WHEREOF, the CITY, and the 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 affixed hereto, all on the day and year first above written.

APPROVED: _____
John M. Henry, Mayor

ATTEST: _____
Jennifer Sorrell, City Clerk

OWNERS:

By: _____
Kimberly Hall, both personally and as
successor for the Country Village
Homeowner's Association

By: _____
TLM, LLC

By: _____
TP& MP, LLC

STATE OF ILLINOIS)

) SS

COUNTY OF JACKSON)

I, _____, in and for said County, in the State aforesaid, DO
HEREBY CERTIFY that _____, personally known to me to be the Mayor of
the City of Carbondale, and _____ personally known to me to be the
City Clerk of said City, 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
acknowledged that such Mayor and City Clerk, they signed and delivered the said instruments as
Mayor and City Clerk of said City, and caused the corporate seal of said City to be affixed thereto,
pursuant to authority, given by the City Council of the City of Carbondale, as their free and
voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposed
therein set forth

GIVEN under my hand and official seal, this _____ day of _____, A.D.
20____

Notary Public

STATE OF ILLINOIS)

) SS

COUNTY OF JACKSON)

I, _____, in and for said County, in the State aforesaid, DO
HEREBY CERTIFY that _____, 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 acknowledged that they signed and delivered the said instruments as their free
and voluntary act and deed of said City, for the uses and purposed therein set forth

GIVEN under my hand and official seal, this _____ day of _____, A.D.
20____

Notary Public

STATE OF ILLINOIS)

) SS

COUNTY OF JACKSON)

I, _____, in and for said County, in the State aforesaid, DO
HEREBY CERTIFY that _____, 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 acknowledged that they signed and delivered the said instruments as their free
and voluntary act and deed of said City, for the uses and purposed therein set forth

GIVEN under my hand and official seal, this _____ day of _____, A.D.
20_____

Notary Public

STATE OF ILLINOIS)

) SS

COUNTY OF JACKSON)

I, _____, in and for said County, in the State aforesaid, DO
HEREBY CERTIFY that _____, 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 acknowledged that they signed and delivered the said instruments as their free
and voluntary act and deed of said City, for the uses and purposed therein set forth

GIVEN under my hand and official seal, this _____ day of _____, A.D.
20_____

Notary Public

Exhibit A

LEGAL DESCRIPTION- Country Village Subdivision

The property commonly known as County Village located on Route 13 East.

Country Village Subdivision, more particularly described as follows: The following is the detailed description of said parcel: Commencing at the North-west corner of the Northeast Quarter of the Southeast Quarter of Section 13, Township 9 South, Range 1 West of the 3rd Principal Meridian, Jackson County, Illinois; thence East along the North line of said Quarter, Quarter Section, a distance of 643.50 feet (39 Rods) to the point of beginning for this description; from said point of beginning, thence continuing Easterly along the said North line of said Quarter, Quarter Section, a distance of 684.91 feet to a point in the Westerly right-of-way line of a public road, said right-of-way line located 20 feet West of and parallel with the East line of said Quarter, Quarter Section; thence Southerly with a deflection angle of $90^{\circ}-17'-30''$, along said Westerly right-of-way line of public road and along a line parallel with the East line of said Quarter, Quarter Section, a distance of 62.52 feet to a point of intersection with the Northwesterly right-of-way line of S.B.I Route 13; thence Southwesterly with a deflection angle of $41^{\circ}-36'-36''$, along the said North-westerly right-of-way of S.B.I Route 13 of distance of 491.60 feet to a point; thence Westerly with a deflection angle of $48^{\circ}-01'$, a distance of 358.50 feet (21 Rods and 12 feet) to a point; thence Northerly with a deflection angle of $90^{\circ}-23'$, a distance of 429.00 feet (26 Rods) to the point of beginning.