

ORDINANCE NO. 541

VILLAGE OF BELLEVUE, ILLINOIS

ORDINANCE GRANTING A SPECIAL USE
(WITH RESTRICTIONS) TO ALLOW MICHAEL G. WILKINS
TO OPERATE A LANDSCAPE OFFICE AND BUSINESS IN AN
AGRICULTURAL (A-1) DISTRICT UNDER THE ZONING CODE
OF THE VILLAGE OF BELLEVUE.

WHEREAS, an application has been filed with the Village of Bellevue Zoning Board of Appeals ("Zoning Board") for a special use permit by Michael G. Wilkins ("Applicant") to operate his tree cutting and landscape business, commonly known as Precision Tree Service (the "Business"), from the property located within the Village of Bellevue ("Village") and commonly known as 4419 W. Plank Road, Peoria, IL 61604, and more particularly described on Exhibit A attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Village of Bellevue Ordinance No. 528 adopted March 24, 2003 provides for a special use in A-1 districts for the C-1 permitted use of Landscaping Office and Business; and

WHEREAS, Applicant has paid the special use permit fee of \$500 to the Village; and

WHEREAS, notice of the public hearing before the Zoning Board has been given in accordance with Section 14.4 of the Village Zoning Code; and

WHEREAS, the Zoning Board has made a report and recommendation with findings of fact to the Village of Bellevue Board of Trustees ("Board of Trustees") regarding the effect of such proposed use upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the general welfare of the Village; and

WHEREAS, the corporate authorities have duly considered the findings and recommendations of the Zoning Board and find that the special use procedures have complied with the Village Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF BELLEVUE, PEORIA COUNTY, ILLINOIS, AS FOLLOWS:

Section 1. The reports, findings and recommendations of the Zoning Board are herein incorporated by reference as the findings of the Board of Trustees, as completely as if fully recited herein at length. Also, all exhibits submitted at the public hearing are hereby incorporated by reference as fully as if attached hereto. The Board of Trustees further finds that the proposed special use, subject to certain conditions and restrictions, is in the public good and in the best interest of the Village and its residents and is consistent with and fosters the purpose and spirit of the Village Zoning Code. The special use herein granted subject to certain conditions and restrictions will not be detrimental to the public health, safety, morals, comfort and general welfare, nor shall it be injurious to the use and enjoyment of other properties in the vicinity, nor substantially diminish or impair property values within the neighborhood.

Section 2. The Property is hereby granted a special use for use by Applicant of the Business on said Property, subject to the following conditions and restrictions:

- (i) the use of the Property by Applicant shall at all times comply with all applicable federal, state and local laws, rules, regulations and ordinances, including, but not limited to all environmental laws governing the storage, treatment, disposal and dumping of landscape waste.
- (ii) Applicant shall secure and maintain in good standing all applicable permits from all federal, state and local governmental authorities necessary for the continued operation of Applicant's Business on the Property in accordance with this Ordinance.
- (iii) Any and all trees, shrubs, brush, bushes and other landscape materials, refuse and waste (collectively the "Raw Material") brought to and deposited on the Property shall be so deposited on the Property only by Applicant in connection with the operation of the Business by Applicant. The intent of this restriction is that the Property not become the community dumping site for Raw Material, but rather such depositing of Raw Material on the Property be restricted to Applicant's Business exclusively.
- (iv) In no event shall any Raw Material or equipment or machinery be deposited, stock-piled, stored, parked or otherwise placed within the fifty foot (50') front yard and side yard setback as depicted on the site plan attached hereto as Exhibit A, without the prior written consent of the Village Board of Trustees.
- (v) All Raw Material deposited on the Property shall be processed by Applicant in the ordinary course of Business established by Applicant in compliance with this Ordinance. Applicant's Business practices and operations shall include the following procedures necessary to ensure that all Raw Material deposited on the Property is processed by Applicant pursuant to a flow pattern and in a manner that introduces such Raw Material, or the by-products of such processed Raw Material, back into the stream of commerce within a reasonable period of time so as to ensure that such Raw Material, or the by-products of such Raw Material, are not being stored on the Property:
 - Applicant shall keep a written record (no longer than a weekly basis) of the date and volume (in cubic yards) of all Raw Material that is deposited by Applicant on the Property;
 - Applicant shall keep a written record (no longer than on a weekly basis) of the date and volume (in cubic yards or such other form of measurement for the by-products) that all Raw Material located on the Property is processed and batched by Applicant into by-products of such Raw Material (i.e., firewood, logs for sawmill, mulch, chips, etc.); and
 - Applicant shall keep a written record (no longer than on a weekly basis) of the date and volume (in cubic yards or such other form of measurement for the by-products) that all Raw Material, or the by-products of such Raw Material, are disposed of or removed from the Property and introduced back into the stream of commerce.

In no event shall any Raw Material, or by-products of Raw Material, (i) be disposed of by open burning without the prior written consent of the Village, or (ii) remain located on the Property without being processed for a period exceeding three (3) months from the date such Raw Material is deposited on the Property or for a period exceeding six (6) months from the date such Raw Material is processed by Applicant into by-products of such Raw Material. Notwithstanding anything herein to the contrary, such

Raw Material may be used or disposed of for recreational use or burning (outside fires no larger than 5"x5"x5") or for utility/heating of the inside of improvements constructed on the Property by Applicant.

- (vi) Applicant shall maintain and provide the Board of Trustees with access to all written records and reports required by this Ordinance to be kept and maintained by Applicant in order for the Board of Trustees to determine compliance by Applicant with this Ordinance.
- (vii) Applicant shall permit members of the Board of Trustees and members of all other federal, state and local governmental agencies, and their representatives and agents, to access the Property for purposes of determining compliance by Applicant with this Ordinance.

Section 3. In the event Applicant continues to violate, disobey, omit, neglect or refuse to comply with or resists enforcement of any of the provisions or restrictions of this Ordinance thirty (30) days after written notice from the Village setting forth such violation, Applicant shall be deemed to have committed a violation of the Ordinance. Upon the occurrence of such a violation, the Village shall notify Applicant in writing (a "Notice of Violation") that (i) such violation must be remedied and cured by Applicant within the period of time set forth in such Notice of Violation, and (ii) that no new or additional Raw Material shall be brought to or deposited on the Property until further inspection by the Village and receipt of written notice from the Village that such violation has been properly remedied and cured in accordance with the Notice of Violation and this Ordinance. Notwithstanding anything herein to the contrary, in the event Applicant violates this Ordinance on two (2) separate occasions within a period of two (2) consecutive years or fails to comply with a Notice of Violation, the Village, in addition to all other remedies at law or in equity, may terminate Applicant's special use of the Property herein granted by delivering written notice of such termination to Applicant, at which time Applicant's use of the Property in the manner provided hereunder shall immediately cease.

Section 4. The special use granted hereby may not be assigned by Applicant without the prior written consent of the Board of Trustees, which consent may be withheld by the Board of Trustees in its sole and absolute discretion. In the event Applicant (i) assigns the special use without obtaining the prior written consent of the Board of Trustees or (ii) ceases to operate the Business from the Property for a period of twelve (12) consecutive months (except for any periods during which Applicant is on military leave or duty), the special use may be terminated by the Board of Trustees immediately by written notice delivered to Applicant by the Board of Trustees.

Section 5. No waiver of any condition or legal right or remedy shall be implied by the failure of the Village to declare a violation, breach or default by Applicant hereunder, and no waiver of any condition or covenant shall be valid unless in writing and signed by the Village.

Section 6. That the Zoning Map of the Village of Bellevue, Peoria County, Illinois be amended so as to conform with the special use permit granted herein.

Section 7. That this Ordinance shall be in full force and effect from and after its passage and approval as required by law.

PASSED AND APPROVED THIS 9th DAY OF September, 2003.

AYES:	<u>5</u>
NAYS:	<u>0</u>
ABSENT:	<u>1</u>

Attest: Carol A. Payne
Carol A. Payne, Clerk

VILLAGE OF BELLEVUE, ILLINOIS

By: Ralph E. Wilson
Ralph E. Wilson, President

EXHIBIT A

Legal Description of Property

A part of the South East $\frac{1}{4}$ of Section 11, Township 8 North, Range 7 East of the Fourth Principal Meridian, bounded and described as follows, to-wit: Commencing at a point on the North line of said Quarter Section 7.15 chains West from the North East Corner of said Quarter Section thence South 33.36 chains to the center line of the Plank Road; thence along said center line Northwesterly 16 chains; thence North 23.44 chains to the North line of said Quarter Section; thence along said North line East 13 chains to the Place of Beginning; Excepting therefrom a parcel described as follows: Commencing at a point on the North line of said Quarter, 7.15 chains West of the North East Corner of said Quarter; thence South 33.36 chains to the Center line of the Plank Road, which is the Point of Beginning; thence along the Center line of Plank Road Northwesterly a distance of 200 feet; thence due North a distance of 215 feet; thence South East, parallel to the center line of Plank Road, a distance of 200 feet to a point 7.15 chains West of the East line of said Quarter; thence South a distance of 216 feet to the Place of Beginning; also excepting therefrom a parcel described as commencing at a point on the North line of said Quarter, 7.15 chains West of the North East Corner of said Quarter; thence South 33.36 chains to the right of way of Plank Road, thence West along the right of way of Plank Road 3.05 chains being the intersection of the right of way of Plank Road and the intersection of Henderson Lane; thence 200 feet West along the right of way of Plank Road, this being the Point of Beginning of the tract to be described; thence North at right angles to Plank Road 18 feet; thence in a Northwesterly direction 85 feet; thence in a Westerly direction and parallel to the right of way of Plank Road 100 feet; thence in a Southerly direction 60 feet to the intersection of the right of way of Plank Road; thence Easterly along the right of way of Plank Road 168 feet to the Point of Beginning, all situated, lying and being in the County of Peoria and State of Illinois.

Permanent Index No.: 17-11-426-001

Property Address: 4419 W. Plank Road, Peoria, Illinois 61604

