



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Director

DATE: December 11, 2008

SUBJECT: Annexation Case No. 2008-A-06: Annexation agreement for a tract of property known as 2408 Barnes Street / Kelvin E. Wilkinson

Introduction & Background

Kelvin E. Wilkinson is requesting approval of an annexation agreement for his property at 2408 Barnes Street. (See Exhibit 1) The 0.30 acre tract of property has been developed for single-family residential purposes. The subject property is not currently contiguous to the city limits, but is within the mile-and-a-half extraterritorial jurisdictional area. A public hearing to consider the annexation agreement is scheduled for December 15, 2008 at 7:00 P.M.

Issues and Discussion

The property is currently occupied by a single-family residence. The petitioner desires to connect to the Urbana-Champaign Sanitary Sewer District (UCSD). Under an intergovernmental agreement with the UCSD, any property owner outside the corporate limits of Urbana that is requesting to connect to the sanitary sewer service must also agree to annex to the City of Urbana at such time as their property is contiguous. To comply with the intergovernmental agreement between the City and the UCSD, the property owner is requesting approval of an annexation agreement. (See Exhibit 2) The proposed annexation agreement outlines the basic provisions for annexing into the City of Urbana. There are no special incentives offered on behalf of the City to the owner in order to annex. In addition, there are no special provisions requested for zoning and consideration by the Urbana Plan Commission is not required.

The subject property is zoned R-3, Two-Family Residence in unincorporated Champaign County. The agreement would provide for the direct conversion to the City’s R-3, Single and Two-Family Residential Zoning District upon annexation. The future land use of the subject property is designated as “Residential” in the 2005 Urbana Comprehensive Plan. The proposed R-3 Zoning District would be consistent with the current use of the property and the future land use designation in the Comprehensive Plan.

The property information is as follows:

Property Location:	2408 Barnes Street
PIN No.:	30-21-03-303-001
Legal Description:	Lot 9 in Second Plat of Prairie View Subdivision, in Champaign County, Illinois as per plat recorded in Plat Book "R", page 47, situated in Champaign County, Illinois.
Acreage:	0.30 acres
County Zoning:	R-3, Two-Family Residence
Urbana Zoning:	R-3, Single and Two-Family Residential (upon conversion when annexed)
Current Use:	Single-Family Residential
Comp. Plan Future Land Use:	Residential

Summary of Findings

1. The proposed annexation agreement is required under the agreement between the City and the Urbana-Champaign Sanitary District that requires all new sewer connections to either annex or enter into an annexation agreement.
2. The proposed annexation agreement would be generally consistent with the goals and objectives of the 2005 City of Urbana Comprehensive Plan.
3. The proposed annexation agreement would not be detrimental to the public health, safety or general welfare.

Options

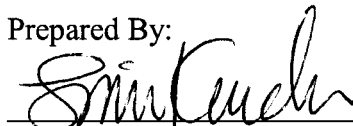
In Annexation Case 2008-A-06, the City Council has the following options:

- a. Approve the annexation agreement; or
- b. Deny the annexation agreement.

Staff Recommendation

Based on the intent of the intergovernmental agreement and on the goals and recommendations of the 2005 Comprehensive Plan, staff recommends that the City Council **APPROVE** the proposed annexation agreement in Annexation Case No. 2008-A-06.

Prepared By:



Lisa Karcher, Planner II

cc: Kelvin E. Wilkinson
2408 Barnes Street
Urbana, IL 61802

Attachments: Draft Ordinance Approving an Annexation Agreement
Exhibit 1: Location Map
Exhibit 2: Draft Annexation Agreement

ORDINANCE NO. 2008-12-145

An Ordinance Approving and Authorizing the Execution of an Annexation
Agreement

(2408 Barnes Street / Kelvin E. Wilkinson)

WHEREAS, an Annexation Agreement between the City of Urbana, Illinois and Kelvin E. Wilkinson has been submitted for the Urbana City Council's consideration, a copy of which is attached; and,

WHEREAS, said agreement governs a tract totaling approximately 0.30 acres located at 2408 Barnes Street and said tract is legally described as follows:

Lot 9 in the Second Plat of Prairie View Subdivision, in Champaign County, Illinois as per plat recorded in Plat Book "R", page 47, situated in Champaign County, Illinois.

WHEREAS, the City Clerk of Urbana, Illinois, duly published notice on the 28th day of November, 2008 in the News-Gazette, a newspaper of general circulation in the City of Urbana, that a public hearing would be held before the Urbana City Council on the matter of the proposed Annexation Agreement on the 15th day of December, 2008; and

WHEREAS, the City of Urbana, Illinois also mailed notice of the public hearing to the Chief and each of the Trustees of the Carroll Fire Protection District on the 3rd day of December, 2008; and

WHEREAS, on the 15th day of December, 2008, the Urbana City Council held a public hearing on the proposed Annexation Agreement; and

WHEREAS, the Urbana City Council has determined that the proposed Annexation Agreement is in conformance with the goals and objectives of the City of Urbana's Official Comprehensive Plan; and,

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed annexation agreement will not negatively impact the City of Urbana and would be in the best interests of the City of Urbana and its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The Annexation Agreement between the City of Urbana, Illinois and Kelvin E. Wilkinson, a copy of which is attached and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver, and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Annexation Agreement, for and on behalf of the City of Urbana, Illinois.

Section 3. The City Clerk is directed to record a certified copy of this Ordinance and the Annexation Agreement herein approved, as amended, with the Recorder of Deeds of Champaign County, Illinois.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of two-thirds of the members of the Corporate Authorities of the City of Urbana, Illinois, then holding office, at a regular meeting of said Council.

PASSED by the City Council this _____ day of _____, 20____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

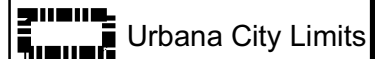
APPROVED by the Mayor this _____ day of _____,
20_____.

Laurel Lunt Prussing, Mayor

Exhibit 1: Location Map



Annexation Case: 2008-A-06
Petitioner: Kelvin E. Wilkinson
Address: 2408 Barnes Street
PIN No.: 30-21-03-303-001



Annexation Agreement

(2408 Barnes Street / Kelvin E. Wilkinson)

THIS Agreement is made and entered into by and between the **City of Urbana, Illinois**, (hereinafter sometimes referred to as the "Corporate Authorities" or the "City") and **Kelvin E. Wilkinson** (hereinafter referred to as the "Owner"). The effective date of this Agreement shall be as provided in Article III, Section 6.

WITNESSETH:

WHEREAS, 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); and

WHEREAS, Kelvin E. Wilkinson is the Owner of record of a certain 0.30 acre parcel of real estate located at 2408 Barnes Street, and having permanent index number 30-21-03-303-001, the legal description of which real estate is set in Exhibit A attached hereto and referenced herein as "the tract".

WHEREAS, the attached map, labeled Exhibit B, is a true and accurate representation of the tract to be annexed to the City of Urbana under the provisions of this agreement.

WHEREAS, although the tract is not yet contiguous to the City of Urbana, the owner finds that in order to best utilize the said tract, it is desirous to enter into this agreement to annex the tract to the City of Urbana when the said tract becomes contiguous to the City, pursuant to and as provided for in this annexation agreement.

WHEREAS, the City and the Owner find it necessary and desirable that the tract be annexed to the City with a zoning classification of R-3, Single and Two-Family Residential, under the terms and provisions of the Urbana Zoning Ordinance in effect upon the date of annexation, as amended, and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Corporate Authorities find annexation of the tract as described herein reflects the goals, objectives and policies set forth in the City's 2005 Urbana Comprehensive Plan, as amended from time to time; and

WHEREAS, such annexation will ensure that the City of Urbana will receive real estate taxes and other revenues and will enable the City to continue to enhance its tax base; and

WHEREAS, the Owner desires to have the aforementioned real estate annexed to the City of Urbana upon certain terms and conditions hereinafter set forth in this Agreement.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. REPRESENTATIONS AND OBLIGATIONS OF THE OWNER

The Owner agrees to the following provisions:

Section 1:

- (a) The Owner represents that he is the sole owner of record of the tract described in Exhibit A and that he shall, within thirty (30) days of the property becoming contiguous to the Urbana City limits cause the tract to be annexed to the City of Urbana by filing a legally sufficient annexation petition with all required signatures thereon, all in accordance with Illinois Statutes. Until annexation of the subject tract occurs, Owner shall require that any persons intending to reside thereon, whether as tenants or owners, shall, prior to residing thereon, irrevocably agree in writing to sign, join in, and consent to any petition for annexation of the subject tract. The Owner shall file such written agreement with the City Clerk within thirty (30) days of the signing of such.
- (b) Owner further agrees that the substance of this Section of the Annexation Agreement shall be included in any sales contract for the sale of any portion of the subject tract. If the subject tract is to be platted for subdivision, the Owner agrees that the substance of this provision regarding annexation shall be included in the subdivision covenants and such will constitute a covenant running with the land.
- (c) Owner agrees that if he fails to include the substance of Section 1(a) of this Agreement in sales contracts or subdivision covenants, as provided herein, and if said annexation is delayed or contested by subsequent owner(s) as a result, the Owner shall be liable to the City for all real estate taxes and other taxes that would have been due to the City had annexation been able to proceed as outlined herein. The Owner agrees for themselves, successor and assigns, and all other persons intended herein to be obligated to consent to annexation, to cooperate in signing or joining in any petition for annexation for the subject tract and that mandamus would be an appropriate remedy in the event of refusal so to do, and, if the City has to resort to Court proceedings to enforce this obligation, the City shall be entitled to recover reasonable attorney's fees. The parties agree that nothing in this section shall preclude the voluntary annexation of the subject tract or any portion thereof earlier than would otherwise be required.

Section 2: The Owner agrees to accept the direct conversion of Champaign County zoning to City of Urbana zoning classification as provided for by the Urbana Zoning Ordinance Section IV-5 and as such exists at the time of annexation. Furthermore, the Owner agrees to abide by all applicable development regulations existing at the time of annexation.

Section 3: The Owner agrees to cause any/all new development, construction, or additions on said tract to be in conformance with all City of Urbana building, electrical, fire and plumbing codes, orders or regulations in effect at the time of annexation. The Owner agrees to submit all building construction plans to the City of Urbana for review and further agrees to pay the building permit fee just as though the construction were taking place within the Urbana City limits. The Owner further agrees to correct any deficiencies identified in said plan review. In addition the Owner agrees that all construction will be subject to the same building and construction inspection requirements as construction projects within the City limits.

Section 4: The Owner shall take no action or omit to take action during the term of this Agreement which action or omission, as applied to the tract, would be a breach of this Agreement, without first procuring a written amendment to this Agreement duly executed by both the Owner and the City. Said action includes petitioning for a county rezoning of said tract without a written amendment to this Agreement.

ARTICLE II. REPRESENTATIONS AND OBLIGATIONS OF THE CORPORATE AUTHORITIES

The Corporate Authorities agree to the following provisions:

Section 1: The Corporate Authorities agree to annex said tract subject to the terms and conditions outlined in this Agreement, when properly and effectively requested to do so, by submission of a legally sufficient petition from the Owner, by enacting such ordinances as may be necessary and sufficient to legally and validly annex said tract to the City.

Section 2: The Corporate Authorities agree that the tract will be zoned R-3, Single and Two-Family Residential per the conversion of Champaign County zoning to City of Urbana zoning classification as provided for by the Urbana Zoning Ordinance or whatever zoning classification is provided for in such conversion table at the time of annexation. The Corporate Authorities agree that all applicable development regulations existing at the time of annexation will apply to said tract. Furthermore, although the Corporate Authorities agree not to rezone the property during the term of this Agreement without a rezoning petition executed by the property Owner requesting said change, the Corporate Authorities reserve the right to amend the Zoning Ordinance text even if such amendment affects the property. If the zoning district referenced herein is not in existence at the time of the annexation, the parties agree to reclassify said property to the most comparable zoning classification as is determined by the Zoning Administrator.

ARTICLE III: GENERAL PROVISIONS

Section 1: Term of this Agreement -- This Agreement shall be binding upon the parties hereto, and their respective successors and assigns, for a full term of twenty (20) years commencing as of the effective date of this Agreement as provided by the Illinois State Statutes, unless other provisions of this Agreement specifically apply a different term. To the

extent permitted thereby, it is agreed that, in the event the annexation of subject tract under the terms and conditions of this Agreement is challenged in any court proceeding, the period of time during which such litigation is pending shall not be included in calculating said twenty-year term.

If this Agreement imposes any obligation, restraint, or burden (hereinafter called collectively "obligation") on the Owner, his successors or assigns, which obligation extends beyond the termination date of this Agreement, such obligation may be released by the Urbana City Council enacting an Ordinance releasing such obligation by a majority vote of all Alderpersons then holding office and the recording of such Ordinance in the Champaign County Recorder's Office, Champaign County, Illinois.

Section 2: Covenant running with the land -- The terms of this Agreement constitutes a covenant running with the land for the term of this Agreement unless specific terms are expressly made binding beyond the term of this Agreement. Furthermore, the terms herein are hereby expressly made binding upon all heirs, grantees, mortgagees, lessee, executors, assigns and successors in interest of the Owner as to all or any part of the tract, and are further expressly made binding upon said City and the duly elected or appointed successors in office of its Corporate Authorities.

Section 3: Binding Agreement upon parties -- The Corporate Authorities and Owner agree that neither party will take no action or omit to take action during the term of this Agreement which act or omission as applied to the tract would be a breach of this Agreement without first procuring a written amendment to this Agreement duly executed by both the Owner and the City.

Section 4: Enforcement -- The Owner and Corporate Authorities agree and hereby stipulate that either party to this Agreement may, by civil action, mandamus, action for writ of injunction or other proceeding, enforce and compel performance of this Agreement or declare this Agreement null and void in addition to other remedies available. Upon breach by the Owner, the City may refuse the issuance of any permits or other approvals or authorizations relating to development of the tract.

Section 5: Severability -- If any provision of this Agreement is rendered invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect even without the invalid provision.

Section 6: Effective Date -- The Corporate Authorities and Owner intend that this Agreement shall be recorded in the Office of the Champaign County Recorder with any expenses for said recording to be paid by the Corporate Authorities. The effective date of this Agreement shall be the date it is recorded; or if not recorded for any reason, the effective date shall be the date the Mayor signs the agreement on behalf of the City.

Section 7: Irrevocability -- In consideration of the City of Urbana granting approval allowing an Urbana-Champaign sanitary sewer connection pursuant to Resolution No. 9394-R13, this offer of annexation agreement is not revocable for a period of ninety (90) days from the date of execution by owners.

IN WITNESS WHEREOF, the Corporate Authorities and the Owner have hereunto set their hands and seals, and have caused this instrument to be signed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year written below.

Corporate Authorities
City of Urbana:

Owner:

Laurel Prussing, Mayor

Kelvin E. Wilkinson

Date

Date

ATTEST:

ATTEST:

Phyllis D. Clark
City Clerk

Notary Public

Date

Date

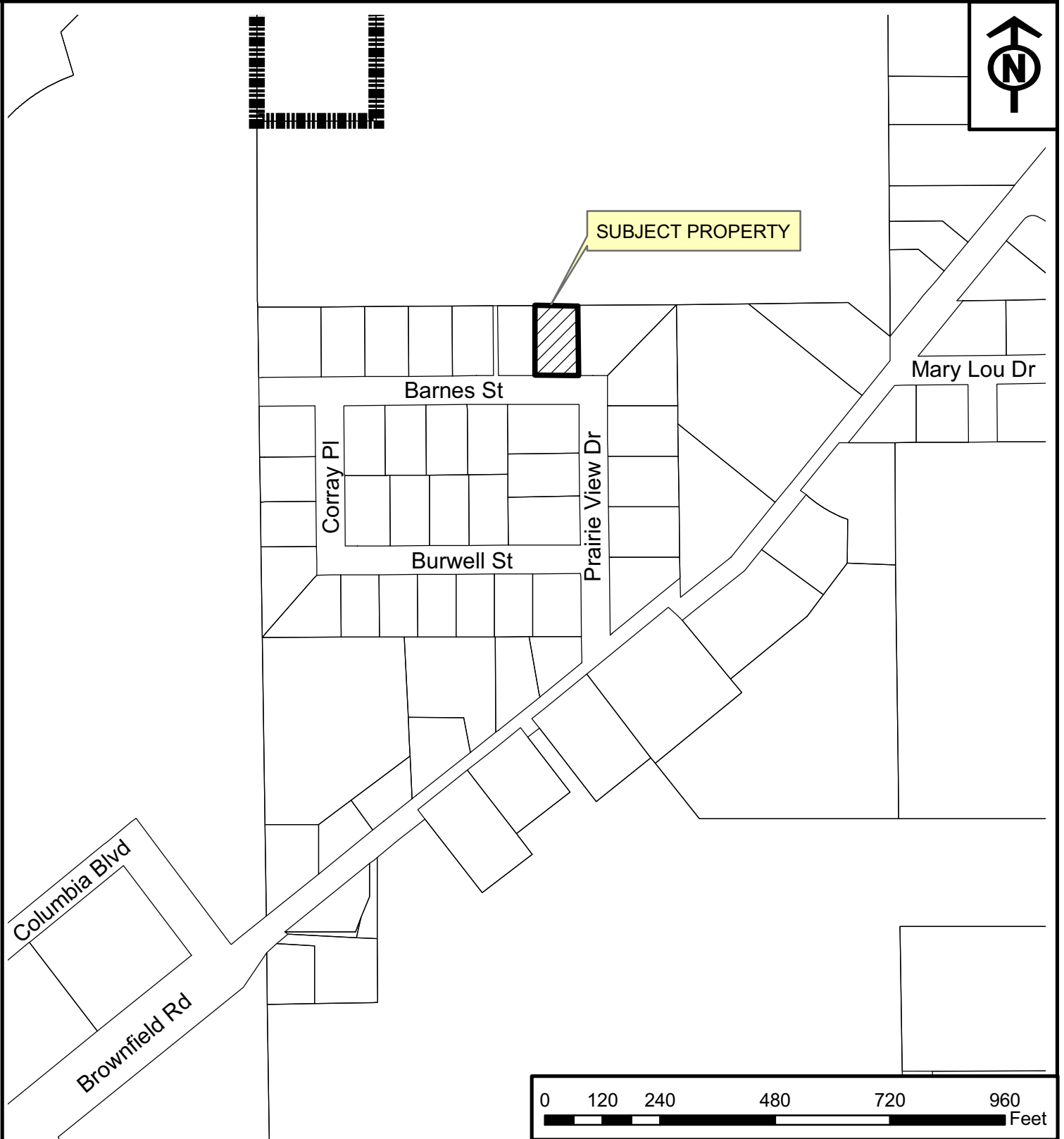
Exhibits attached and made a part of this Agreement:

Exhibit A: Legal Description
Exhibit B: Location Map

Exhibit A
Legal Description

Lot 9 in Second Plat of Prairie View Subdivision, in Champaign County, Illinois as per plat recorded in Plat Book "R", page 47, situated in Champaign County, Illinois.

Exhibit B: Location Map



Annexation Case: 2008-A-06
Petitioner: Kelvin E. Wilkinson
Address: 2408 Barnes Street
PIN No.: 30-21-03-303-001

