



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

memorandum

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Community Development Director

DATE: January 21, 2010

SUBJECT: **Annexation Case 2010-A-01** Annexation of 2209 E Perkins Road – Scott Plunk

Introduction and Background

Staff is requesting the Committee of the Whole consider the attached petition and draft ordinance for the annexation of 2209 East Perkins Road. The 1.7-acre property is owned by Scott Plunk and is subject to an annexation agreement with James Tull, approved on December 21st, 2009 by City Council Ordinance No. 2009-12-128 (attached as Exhibit D).

The property at 2209 East Perkins Road is contiguous to the city limits to the south along the Saline Ditch. The terms of zoning and development are subject to the annexation agreement approved by City Council Ordinance No. 2009-12-128. Any development on the site will be required to be built to the codes and requirements of the City of Urbana.

Issues and Discussion

The petitioner, Scott Plunk, recently purchased the property at 2209 East Perkins Road, and plans to demolish an existing uninhabitable structure and replace it with a single-family home with an accessory interior storage area. Through the annexation agreement, the petitioner has agreed to work with the City to bring the property into compliance with City codes and has already obtained a variance and a Zoning Map Amendment to convert the property from County CR, Conservation Recreation to City R-1, Single Family Residence.

Recommendation

Staff recommends the Committee of the Whole forward the attached ordinance to the City Council's regular meeting on February 1, 2010 and approve the ordinance to annex the property located at 2209 East Perkins Road into the City of Urbana, Illinois effective February 11, 2010 at 12:00P.M.

Prepared by:

Jeff Engstrom, Planner I

Attachments:

- Exhibit A: Draft Ordinance
- Exhibit B: Annexation plat
- Exhibit C: Annexation petition submitted by property owners
- Exhibit D: Annexation Agreement for 2209 E. Perkins Road

cc:

| | |
|------------------|------------------|
| Scott Plunk | Byron Balbach |
| PO Box 17106 | PO Box 217 |
| Urbana, IL 61803 | Urbana, IL 61803 |

ORDINANCE NO. 2010-01-005

**AN ORDINANCE ANNEXING CERTAIN TERRITORY
TO THE CITY OF URBANA**

(2209 East Perkins Road / Scott Plunk)

WHEREAS, the hereinafter described territory is situated in unincorporated territory adjacent to and contiguous to the City of Urbana, Illinois, and is part of the Carroll Fire Protection District, and includes certain territory within Urbana Township, and Notice was given to the Trustees of said Fire Protection District, the Board of Township Trustees, and the Township Commissioner of Highways that this Ordinance would be voted upon, and the Affidavit of mailing such Notices was duly recorded with the Recorder of Deeds of Champaign County, Illinois; and

WHEREAS, a written petition signed by all of the Owners of Record and at least fifty-one percent (51%) of the electors, of all land within such territory, has been filed with the City Clerk of the City of Urbana, Illinois, requesting annexation thereof to the City of Urbana; and

WHEREAS, the property is subject to an adopted annexation agreement between James Tull Sr., Scott Plunk, and the City of Urbana adopted at the regular meeting of the Urbana City Council on December 21, 2009 under Ordinance Number 2009-12-128; and

WHEREAS, the territory to be annexed by this Ordinance is presently located within Champaign County's CR, Conservation-Recreation zoning district and upon annexation will be classified City R-1, Single Family Residential Zoning District in accordance with the provisions of the annexation agreement and the Urbana Zoning Ordinance; and

WHEREAS, the annexation agreement for the territory approved a

variance to allow for the construction of a combination residence and accessory storage building in which the accessory storage use is larger in area than the principal residential use, subject to the conditions required in the agreement; and

WHEREAS, it has been determined that said petition complies with all requirements of the law therefore; and

WHEREAS, the majority of the Members of the Council are of the opinion that it would be for the best interests of the people of the City of Urbana, Illinois, that said territory be annexed to and made a part of the said City.

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

Section 1. That the following described real estate is hereby annexed to the City of Urbana, viz.:

Lot 102, except the west Twenty-Two (22) feet thereof, of Tull's Replat Subdivision, a part of the NW $\frac{1}{4}$ of Section 10, Township 19 North, Range 9 East of the Third Principal Meridian located in Champaign County, Illinois, as recorded as Document #2004R23616 in the Office of the Champaign County Recorder, Champaign County, Illinois.

All situated in Urbana Township, Champaign County, Illinois, and containing 1.668 Acres, more or less.

Together with the following described public right-of-way, which by operation of the law is automatically annexed following the adoption of an Annexation Ordinance pertaining to this tract:

All of the Perkins Road Right-of-Way, lying adjacent to the above described tract, being 66 feet in width. All

situated in Champaign County, Illinois and containing 0.282 Acres, more or less.

commonly known for reference as 2209 E. Perkins Road, Urbana, Illinois, be and the same is hereby annexed to the City of Urbana, Illinois. The above-described parcel, prior to annexation, having parcel index numbers 30-21-10-101-019 and a portion of 30-21-10-101-018.

Section 2. That the City Clerk be authorized and directed to record a certified copy of this Ordinance together with an accurate map of the territory herein above described in the Recorder's Office of Champaign County, Illinois in the Office of the County Clerk and County Election Authority of Champaign County, Illinois.

Section 3. The Zoning Ordinance of the City of Urbana, Illinois, and the Zoning Map of Urbana, Illinois, are hereby amended to classify the real property herein annexed as R-1, Single Family Residential upon annexation.

Section 4. The territory annexed herein is assigned to City of Urbana Ward 5.

Section 5. To avoid uncertainty regarding public safety responsibilities concerning the property herein annexed, this Ordinance shall take effect at noon on the 11th day of February, 2010 following its passage by the Urbana City Council.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council on the _____ day of _____, 2010, A.D.

Ayes:

Nays:

Abstain:

PASSED by the City Council this _____ day of _____
____, 2010.

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____
____, 2010.

Laurel Lunt Prussing, Mayor

A part of the Northwest Quarter of Section 10, Township 19 North, Range 9 East of the Third Principal Meridian, Urbana Township, Champaign County, Illinois, being more particularly described as follows:

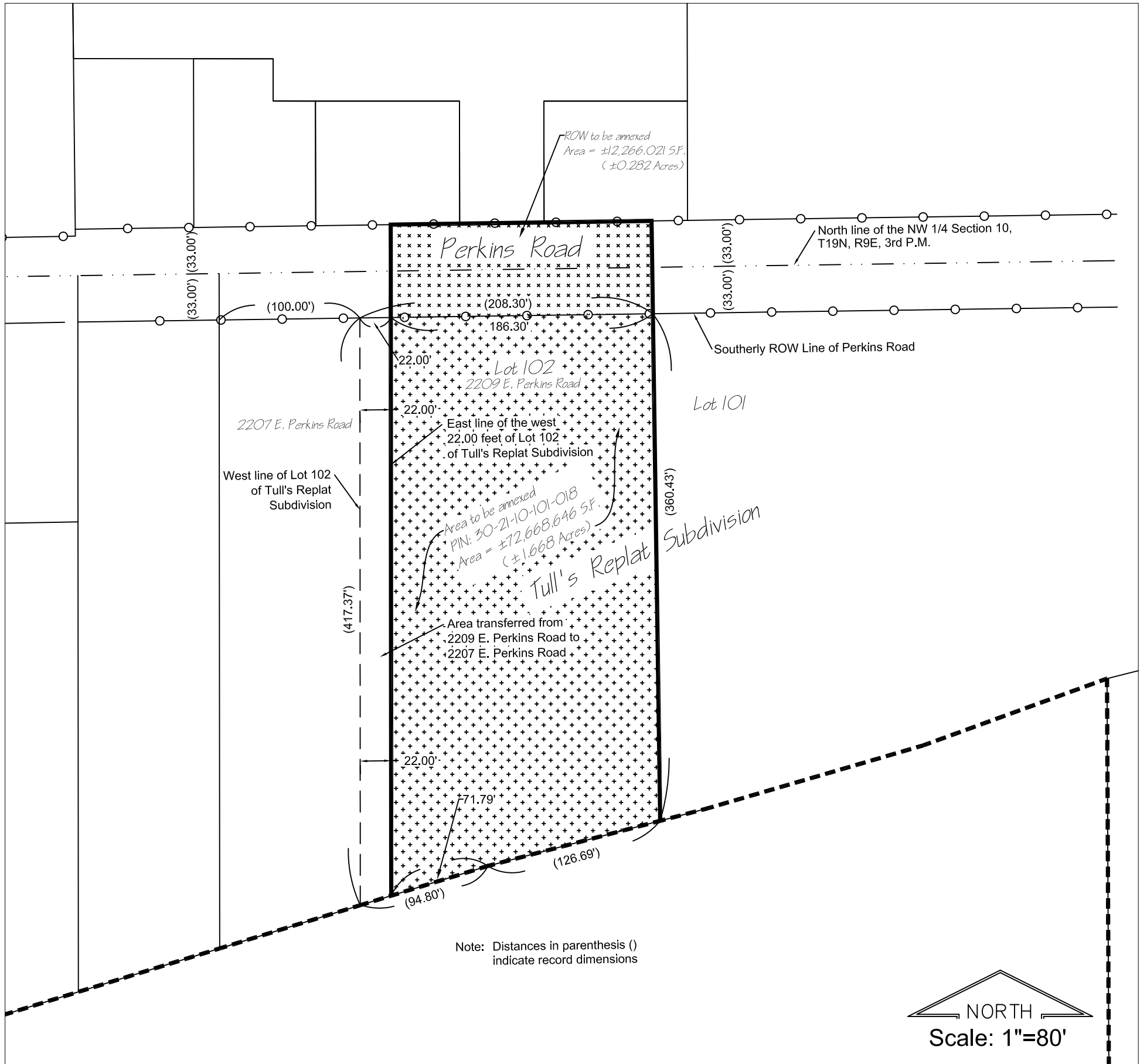
Lot 102, except the west Twenty-Two (22) feet of even width thereof, of Tull's Replat Subdivision, a part of the NW ¼ of Section 10, Township 19 North, Range 9 East of the Third Principal Meridian located in Champaign County, Illinois, as recorded July 27, 2004 as Document # 2004R23616 in the Office of the Champaign County Recorder, Champaign County, Illinois.

Said tract containing 72,668.646 S.F. (1.668 Acres), more or less, all situated in Urbana Township, Champaign County, Illinois.

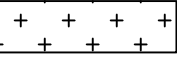



Together with the following described adjacent public Right-of-Way which is by operation of the law, automatically annexed with the adoption of an annexation ordinance pertaining to this tract:

All of the Perkins Road Right-of-Way lying adjacent to the above described parcel, being 66 feet in width.

Encompassing 12,266.021 S.F. (0.282 acre), more or less, all being situated in Urbana Township, Champaign County, Illinois.



**MAP SHOWING AREA
ANNEXED BY CITY
ORDINANCE #2010-01-XXX
CITY OF URBANA, ILLINOIS
CHAMPAIGN COUNTY
DATE: January XX, 2010**

| | |
|----------------------|---|
| AREA OF ANNEXATION |  |
| EXISTING CITY LIMITS |  |
| NEW CITY LIMITS |  |
| RIGHT-OF-WAY |  |

**ENGINEERING
DIVISION** 

CITY ENGINEER/PUBLIC WORKS DIRECTOR

CAD: B.W.F. 01/20/2010
CHECKED: W.R.G. 01/20/2010

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 1/7/10 Annexation Case No. 2010-A-01

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

1. Location of Subject Site 2209 E. Perkins Road, Urbana, Illinois
2. PIN # of Location 30-21-10-101-109 and a portion of 30-21-10-101-018
3. Name of Applicant/Petitioner(s) Scott Plunk Phone 217-493-1597
 Address P.O. Box 17106, Urbana, IL 61803
 (street/city) (state) (zip)

Property interest of Applicant(s) Owner
 (owner, contract buyer, etc)

4. Name of Owner(s) Scott Plunk Phone 217-493-1597
 Address P.O. Box 17106, Urbana, IL 61803
 (street/city) (state) (zip)

If there are additional owners, please attach extra pages to the application.

SIZE, USE, AND ZONING OF PROPERTY

Lot Size _____ feet x _____ feet = 6,866.455 square feet

Present Use of Property residence
 (vacant, residence, grocery, factory, etc)

Present Zoning Designation Champaign County CR, Conservation-Recreation

To the City Council of the City of Urbana

Champaign County, Illinois

The Petitioner, Scott Plunk; respectfully states under oath:

1. That I, Scott Plunk (*petitioner*), am the sole owner of record of the following legally described land (hereinafter sometimes referred to as the "Tract"), except any public right-of-way property wit:

Lot 102, except the west Twenty-Two (22) feet thereof, of Tull's Replat Subdivision, a part of the NW ¼ of Section 10, Township 19 North of the Third Principal Meridian located in Champaign County, Illinois, as recorded as Document #2004R23616 in the Office of the Champaign County Recorder, Champaign County, Illinois.

Together with the following described adjacent public right-of-way which is by operation of the law, automatically annexed with the adoption of an Annexation Ordinance pertaining to this parcel:

All of the Perkins Road Right-of-way lying adjacent to the above-described tract.

Also known for reference as 2209 East Perkins Road Urbana, Illinois,

having permanent identification number (PIN) 30-21-10-101-019 and a portion of 30-21-10-101-018.

2. That said territory is not situated within the corporate limits of any municipality, but is contiguous to the City of Urbana, Illinois.
3. That there are no electors residing on said Tract.

PETITIONER RESPECTFULLY REQUESTS:

1. That the above described Tract(s) be annexed to the City of Urbana by Ordinance of the Mayor and City Council of the City of Urbana, pursuant to Section 7-1-8 of Chapter 24 of the Illinois Municipal Code of the State of Illinois, as amended.
2. That said Tract be annexed in accordance with the terms of the annexation agreement passed by the City Council on December 21, 2009 as Ordinance No. 2009-12-128 and approved by the Mayor of the City of Urbana.

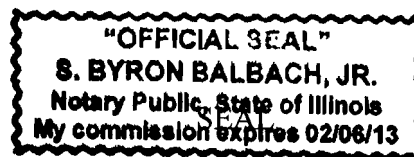
Dated this 5th day of January, 2010

OWNER(S):

By: Scott Plunk

Subscribed and sworn to before me this 5th day of January, 2010.

[Signature]
Notary Public



My Commission Expires: _____ day of _____, 20_____.

Annexation Agreement

DEC 21 2009

(James E. Tull Sr.)

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 **James E. Tull Sr.** (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, James E. Tull Sr. is the Owner of record of a certain parcel of real estate located at 2209 East Perkins Road, the legal description of which real estate is set forth in Exhibit A attached hereto and referenced herein as Tract "A", or "the tract"; and

WHEREAS, Scott Plunk has agreed to purchase the tract if the tract is subject to the terms and conditions set forth in this annexation agreement and James E. Tull Sr., as owner is agreeable to accommodate such by signing as Owner, provided it is contingent upon finalization of the sale of the tract as further set forth in Article III, Section 6 below; and

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; and

WHEREAS, the tract is contiguous to the City of Urbana and may be immediately annexed; and

WHEREAS, the tract is currently zoned Champaign County CR, Conservation – Recreation in Champaign County and the City and the Owner find it necessary and desirable that the tract be annexed to the City with a zoning classification of R-1, Single-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 under R1, Single-Family Residential zoning generally reflects the goals, objectives and policies set forth in the City's 2005 Urbana Comprehensive Plan, as amended from time to time; 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. Ownership and Annexation. The Owner represents that the Owner is the sole record Owner of the property described in Exhibit A and that the Owner shall, within thirty (30) days of the effective date of this agreement 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.

The 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 property. 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 covenant and such will constitute a covenant running with the land. The Owner agrees for itself, 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. Authority to Annex. The Owner agrees and hereby stipulates that the City, by its approval, execution or delivery of this Agreement does not in any way relinquish or waive any authority it may have to annex the tract in the absence of this Agreement.

Section 3. Zoning. The Owner acknowledges that upon annexation, the tract will be rezoned from Champaign County CR, Conservation-Recreation to City R-1, Single-Family Residential Zoning District. The Owner agrees that, unless changed upon the initiative of the Owner, the said City zoning classifications for said tract shall remain in effect for the term of this Agreement, subject to the right of the Corporate Authorities to amend the Zoning Ordinance text even if such amendment affects the tract. The Owner agrees to use the tract only in compliance with the Urbana Zoning Ordinance and this agreement as such may be amended from time to time.

Section 4. Accessory Storage Area Variance: It is understood and agreed that the following provisions are agreed to by the Owner because Scott Plunk wants them in the agreement and he anticipates that by assignment of the agreement to him after he becomes owner of the tract he will benefit thereby. Thus, the Owner, on his behalf, agrees to the following conditions of a Variance granted by Article II Section 3 of this Agreement, which

will allow the construction of a combination residence and accessory storage building in which the accessory storage use is larger in area than the principal residential use.

1. The combined area of the residential/storage building shall not exceed 4,032 square feet.
2. The storage area shall only be used for non-commercial uses, including the storage of vehicles, equipment, and materials which are the property of the Owner.
3. No equipment shall be stored outside of the building.

Section 5. Land Uses. The Owner agrees that the uses of the tract shall be limited to those allowed within Urbana's R1, Single-Family Residential Zoning District and shall not operate any commercial use on the tract.

Section 6. Building and Zoning Code Compliance. The Owner agrees to cause all new development, construction, remodeling or building additions on said tract to be in conformance with all applicable City of Urbana codes and regulations including building, zoning and subdivision codes.

Section 7. Sewer Connection. The Owner agrees to connect to the Urbana-Champaign Sanitary District public sewer upon the failure of the existing septic system on the property. The Owner agrees not to repair or replace the existing septic system upon failure.

Section 8. Demolition of Structures. The Owner agrees to demolish the existing house, garage, and accessory structure on the tract within 365 days of the effective date of this agreement.

Section 9. Amendments Required. 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 the Owner and the City. Said action includes petitioning for a county rezoning of said tract without written amendment to this Agreement.

ARTICLE II. REPRESENTATIONS AND OBLIGATIONS OF THE CORPORATE AUTHORITIES

The Corporate Authorities agree to the following provisions:

Section 1. Annexation. 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. Zoning. The Corporate Authorities agree to annex the tract with a zoning classification of R-1, Single-Family Residential, as defined in the City of Urbana Zoning Ordinance as such exists at the time of annexation of the tract. The Corporate Authorities agree that all applicable development regulations existing at the time of annexation will apply to said tract. The Corporate Authorities further agree that the granting of the Zoning Map Amendment would be consistent with the LaSalle Criteria established by the Illinois Supreme Court in LaSalle National Bank v. The County of Cook:

- a. The existing land uses and zoning of the nearby property.
- b. The extent to which property values are diminished by the restrictions of the ordinance.
- c. The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.
- d. The relative gain to the public as compared to the hardship imposed on the individual property owner.
- e. The suitability of the subject property for the zoned purposes.
- f. The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.

Section 3. Accessory Storage Area Variance: The Corporate Authorities agree with this annexation agreement to grant a Variance to allow the Owner to construct a combination single-family home and storage building in which the accessory storage use is larger in area than the principal residential use. The total area of this structure shall not exceed 4,032 square feet. The Corporate Authorities further agree that the granting of this variance is consistent with the following criteria identified in Section XI-3 of the Urbana Zoning Ordinance, in that the variance:

- a. will not alter the essential character of the neighborhood;
- b. will not cause a nuisance to adjacent property;
- c. represents, generally, the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.

Section 4. Amendments. The City shall take no action nor omit to take action during the term of this Agreement which act or omission, as applied to the tract, would be a breach hereof, without first procuring a written amendment to this Agreement duly executed by the Owner, or the Owner's successors or assigns, of the portion of the tract which is directly the subject of the amendment.

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. By mutual agreement, the term of this Agreement may be extended.

If this Agreement imposes any obligation, restraint, or burden (hereinafter called collectively "obligation") on the Owner or the Owner's 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 constitute a covenant running with the land for the life of this Agreement unless specific terms are expressly made binding beyond the life of this Agreement. Furthermore, the terms herein are hereby expressly made binding upon all heirs, grantees, lessees, 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 no party will take 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 the Owner and the City.

Section 4. Enforcement. The Owner and Corporate Authorities agree and hereby stipulate that any 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 the party not in default may 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. It is understood and agreed that James E. Tull Sr., present owner of the tract, has signed this agreement as a condition of a pending sale of the tract

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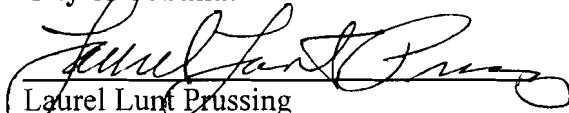
Section 6. Effective Date. It is understood and agreed that James E. Tull Sr., present owner of the tract, has signed this agreement as a condition of a pending sale of the tract

to Scott Plunk, and as such, this agreement shall become effective and binding only upon the recording of a deed in the office of the Champaign County Recorder, on or before the 1st day of July, 2010, conveying the title of the tract to Scott Plunk. If such deed is not recorded by such date, this agreement shall become null and void.

Section 7. Assignment and Recording. This agreement may be assigned by the Owner to Scott Plunk without prior approval of the Corporate Authorities. If such deed conveying the tract by the Owner to Scott Plunk is recorded with the office of the Champaign County Recorder, the Corporate Authorities shall record a certified copy of this agreement.

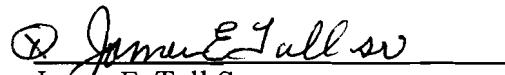
IN WITNESS WHEREOF, the Corporate Authorities and Owner have hereunto set their hands and seals, and have caused this instrument to be signed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year written below.

Corporate Authorities
City of Urbana:


Laurel Lunt Prussing
Mayor


12/21/09
Date

Owner:


James E. Tull Sr.

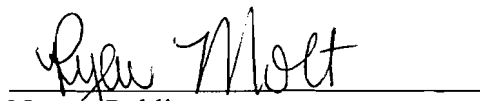
12/8/09
Date

ATTEST:

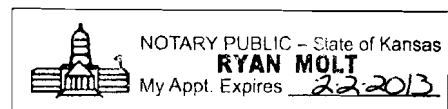

Phyllis D. Clark
City Clerk

December 22, 2009
Date

ATTEST:


Notary Public

12/8/2009
Date



Purchaser:

I certify that I have read this Agreement and approve of it; I will accept assignment of this Annexation Agreement to me by James E. Tull, Sr. after the deed conveying the said tract to me is recorded in the Champaign County (Illinois) Recorder's Office.

Scott Plunk
Scott Plunk

12-14-09
Date

ATTEST:

S. Byron Balbach, Jr.
Notary Public

12/14/09
Date

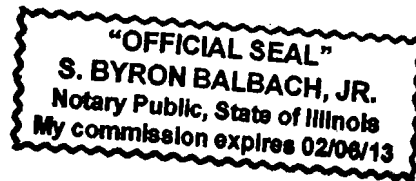


Exhibit A

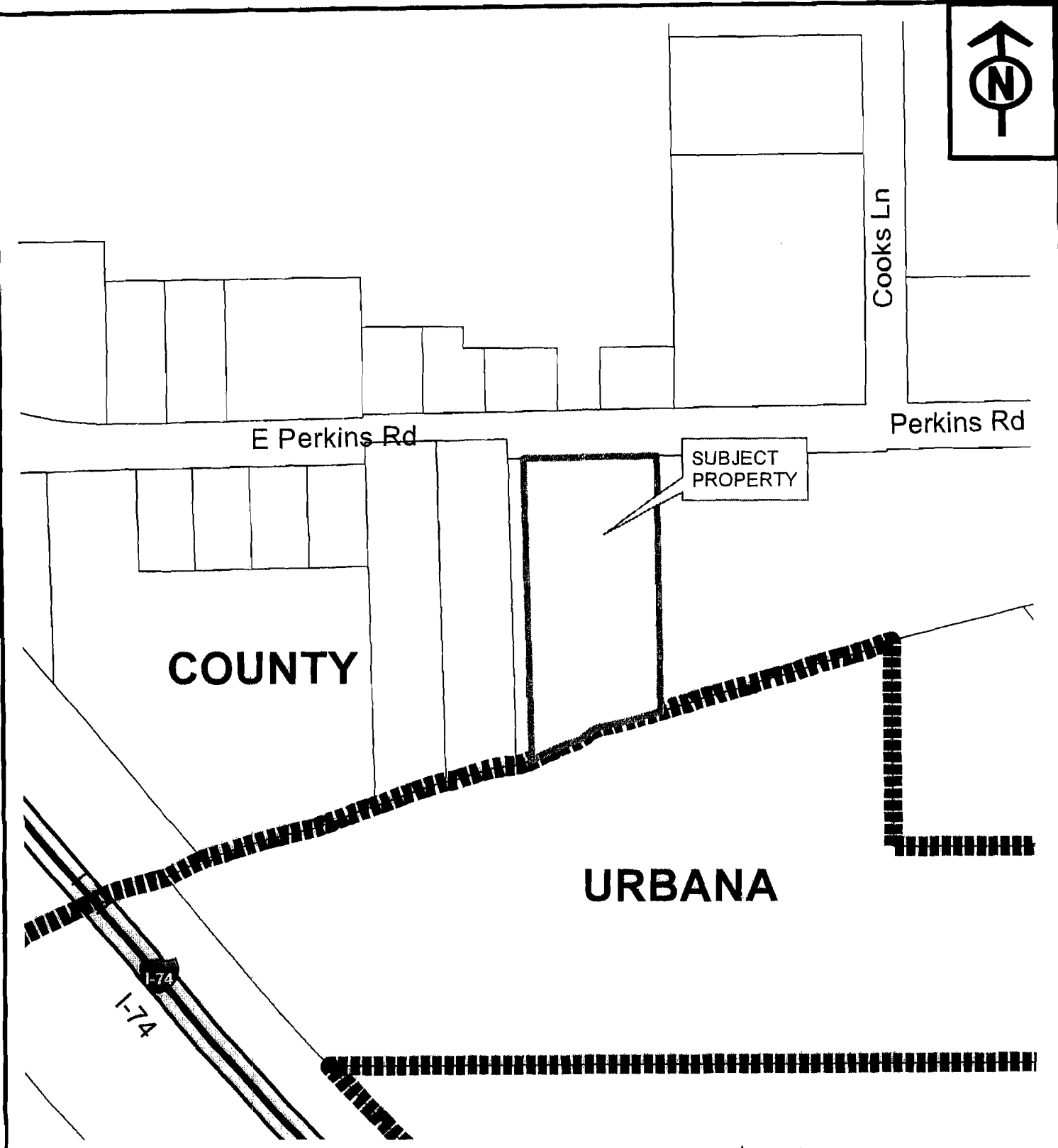
Legal Description

Lot 102, except the west Twenty-Two (22) feet thereof, of Tull's Replat Subdivision, a part of the NW $\frac{1}{4}$ of Section 10, Township 19 North of the Third Principal Meridian located in Champaign County, Illinois, as recorded as Document #2004R23616 in the Office of the Champaign County Recorder, Champaign County, Illinois.

PIN:

Commonly known as 2209 East Perkins Road, Urbana.

Exhibit B: Location Map



Plan Case: 2009-A-07
Description: Scott Plunk
Annexation Agreement
Location: 2209 E Perkins Road

