



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: May 31, 2012

SUBJECT: Plan Case No. 2012-A-02: Annexation agreement for a 1.37-acre tract of property at 2100 East University Avenue.

Plan Case No. 2178-M-12: Request to rezone a 1.37-acre tract of property at 2100 East University Avenue from Champaign County B-2 (Neighborhood Business) to City B-2 (Neighborhood Business - Arterial) upon annexation.

Introduction & Background

The City of Urbana has received a request from Town & Country – Illinois LLC to enter into an annexation agreement for a 1.37-acre parcel located northeast of University Avenue (US Route 150) and south of the University Avenue I-74 Access Spur and commonly referred to as 2100 East University Avenue. The property currently contains the Champaign County Power Equipment Company store. Casey’s Retail Company is under contract to purchase the property to relocate their existing East University Avenue convenience store/service station to this location. The proposed agreement would obligate the City to rezone the property from County B-2 (Neighborhood Business) to City B-2 (Neighborhood Business -Arterial) upon annexation. The property is contiguous to the City of Urbana to the west. Following adoption of the annexation agreement, the City would then process an annexation petition to formally annex the property into the City.

At their May 24, 2012 meeting, the Urbana Plan Commission reviewed the proposed rezoning for the subject property and voted 8 ayes and 0 nays to forward a recommendation of approval to the City Council.

A public hearing with the Urbana City Council concerning the proposed annexation agreement between the City and Town & Country is scheduled for June 4, 2012 at 7:00 p.m. The annexation agreement is also on the agenda that evening for City Council consideration.

Issues and Discussion

Annexation Agreement

Benefits of bringing the subject property into the City include compact, contiguous annexation, future tax revenues, and the ability to ensure code compliance and safety.

According to Section IV-5 of the Urbana Zoning Ordinance, an annexation agreement is required if the proposed zoning is not a direct conversion from County zoning as stated in Table IV-1. Per Table IV-1, Table of Uses, a direct conversion from County B-2 (Neighborhood Business) would result in City B-1 (Neighborhood Business) zoning.

Proposed Rezoning

The property is currently zoned County B-2 (Neighborhood Business), and upon annexation would be zoned City B-2 (Neighborhood Business -Arterial).

The B-2, Neighborhood Business – Arterial District is:

intended to provide areas of limited size along arterial streets in proximity to low density residential areas for a limited range of basic commercial trade and personal services. This district is also intended to provide areas for new high density residential uses. These business and residential uses may occur in the same structure. Due to the location of arterial streets in many residential neighborhoods where commercial and high density residential uses would not be appropriate, the B-2 District shall be limited to only those areas that have been so designated by the City's adopted Comprehensive Plan and related amendments.

The subject property is currently occupied by the Champaign County Power Equipment Company store, a service, sales, and parts store for Stihl power equipment. The power equipment store's lease is up and they are scheduled to close. Casey's Retail Company is under contract to purchase the property to relocate their existing East University Avenue store/service station. The Zoning Ordinance classifies the planned Casey's Retail store as a *Convenience Store*, which is a permitted use in the B-2 district. The planned store would include gasoline sales, but as an accessory use. This would be consistent with other convenience stores in the City, such as the two at the intersection of Lincoln Avenue and Green Street.

Adjacent Land Uses and Zoning Designations

The property fronts on both East University Avenue and the I-74 Urbana Spur. The East University Avenue corridor is occupied primarily by commercial uses near the subject site and then residential uses further to the east. The I-74 Urbana Spur corridor is occupied mainly by commercial uses, with some industrial and residential (mobile home park) uses. Directly to the east of the site is a mobile home park.

The following summarizes zoning and land uses for the subject site and surrounding property:

Location	Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Site	B-2, Neighborhood Business (County)	Champaign County Power Equipment Company	Community Business
North	B-3, General Business (City) R-4, Multiple-Family Residential (County)	Undeveloped	Industrial
South	I-2, Heavy Industry (County)	Birkey's Farm Store Hick's Gas	Community Business
East	R-5 Mobile Home Park (County)	Mobile Home Park	Multi-Family Residential
West	East University Avenue	Public Right-of-Way	Community Business

Comprehensive Plan

The subject site is designated “Community Business” in the 2005 City of Urbana Comprehensive Plan. The Comprehensive Plan defines “community business” as follows:

“Community Business centers are designed to serve the overall community as well as the immediate neighborhood but are less intense than regional commercial centers. Located along principal arterial routes or at major intersections. Community Business centers contain a variety of business and service uses at scales and intensities that make them generally compatible with surrounding neighborhoods. Encourage planned-unit developments to create a variety of uses, and to transition intensities to adjoining neighborhoods. Design facilities to permit pedestrian, bicycle, and transit access as well as automobile traffic.”

The La Salle National Bank Criteria

In the case of La Salle National Bank v. County of Cook (the “La Salle” case), the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed by the Petitioner.

1. *The existing land uses and zoning of the nearby property.*

This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.

The proposed B-2, Neighborhood Business - Arterial zoning is consistent with the planned Casey's General Store and with the existing land uses and zoning of nearby property. The subject property is at a highly visible intersection of two commercial corridors, East University Avenue

and the Urbana I-74 Access Spur. In addition, it is located near several residential developments which are currently served by the existing Casey's General Store located just 200 feet to the east of the subject site. This store serves both the neighborhood and the wider community with grocery and food items, and gas. The proposed relocation would allow Casey's to build an updated store and to be in a more visible location. In addition, the proposed relocation would allow Casey's to be located opposite the entryway to a heavy manufacturing plant (Flex-N-Gate), which would allow them to provide service to those employees. In 2009, Casey's proposed to relocate to another location on East University Avenue, just east of their current store. Due to neighborhood concerns and other constraints on the site, however, the relocation effort was not successful.

2. *The extent to which property values are diminished by the restrictions of the ordinance.*

This is the difference in the value of the property as B-1, Neighborhood Business and the value it would have if it were rezoned to B-2, Neighborhood Business - Arterial.

A direct conversion from County to City zoning would result in the subject property being in the B-1 zoning district, which would create a zoning inconsistency as the B-1 zoning district is not intended for commercial properties on arterial streets. The site is located at the intersection of two arterials and is appropriate for more intensive uses than allowed in the B-1 Neighborhood Business district which is intended to provide services at a neighborhood scale. The Urbana Zoning Ordinance classifies Casey's General Store as a convenience store, which would require a Special Use Permit in the City's B-1 zoning district, but would be allowed by right in the City's B-2 district.

It should be noted that the Urbana City Planning Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact on the value of the property. Therefore, any discussion pertaining to property values must be considered speculative and inconclusive.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.*

4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

Questions 3 and 4 apply to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?

The proposed rezoning should not jeopardize the health, safety, morals, or general welfare of the public. Should the rezoning be denied, there would be no relative gain to the public. Rezoning would support retail at a location where it can serve traffic leading to an Interstate, employees at

Flex-N-Gate and other businesses in Butzow Industrial Park, and residents of the neighboring and nearby mobile home parks.

5. *The suitability of the subject property for the zoned purposes.*

The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.

Due to the property's location at the intersection of two arterial streets and at the entryway to an Interstate and an Industrial Park, the proposed B-2, Neighborhood Business – Arterial is the most appropriate zoning district.

6. *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.*

Another test of the validity of the current zoning district is whether it can be shown that the property has remained vacant for a significant period of time because of restrictions in that zoning district.

The property is not currently vacant. However, the County Power Equipment Company store will be closing and therefore could potentially be vacant should the draft annexation agreement not be approved.

Summary of Findings

1. Town & Country Illinois LLC has requested that the City of Urbana enter into an annexation agreement for a 1.37-acre parcel located northeast of University Avenue and south of the University Avenue I-74 Access Spur; commonly referred to as 2100 E University Avenue.
2. The proposed B-2, Neighborhood Business – Arterial Zoning District would allow for the relocation of the existing Casey's General Store at 2108 E University Avenue, Urbana.
3. The proposed B-2, Neighborhood Business – Arterial Zoning District would be generally compatible with the future land use designation of the 2005 Urbana Comprehensive Plan.
4. The proposed rezoning would not be detrimental to the public health, safety or general welfare.
5. The proposed rezoning appears to generally meet the LaSalle Case criteria.

6. The Plan Commission held a public hearing on May 24, 2012 to consider the rezoning and the draft annexation agreement, and voted 8 ayes and 0 nays to forward a recommendation of approval to the City Council.

Options

In Plan Case 2012-A-02 / 2178-M-12, the City Council may:

- a. Approve the proposed annexation agreement, including a zoning designation of B-2, Neighborhood Business - Arterial for the subject property; or
- b. Approve the proposed annexation agreement, including a zoning designation of B-2, Neighborhood Business - Arterial for the subject property, subject to recommended changes (note that the property owner would have to agree to any recommend changes); or
- c. Deny the proposed annexation agreement.

Recommendation

On May 24, 2012, the Urbana Plan Commission held a public hearing on the proposed rezoning. The Plan Commission voted eight ayes and zero nays to forward Plan Case 2012-A-02 / 2178-M-12 to City Council with a recommendation for approval of the annexation agreement and rezoning as presented. Staff concurs with this recommendation.

Prepared By:

Rebecca Bird, Planner II

Attachments: Exhibit A: Location & Existing Land Use Map
 Exhibit B: Zoning Map
 Exhibit C: Future Land Use Map
 Exhibit D: Draft Annexation Agreement
 Exhibit E: Casey's Site Plan

cc: Wes Meyers, Melani Samora, Scott Carter

ORDINANCE NO. 2012-06-056

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN ANNEXATION
AGREEMENT**

(2100 E University Avenue / Town & Country Illinois LLC)

WHEREAS, an Annexation Agreement between the City of Urbana, Illinois and Town & Country Illinois LLC 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 1.37 acres located at 2100 East University Avenue and said tract is legally described as follows:

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY AND EASTERLY RIGHT-OF-WAY LINE OF THE URBANA SPUR OF INTERSTATE HIGHWAY ROUTE 74 (FA ROUTE 11) WITH THE NORTHERLY RIGHT-OF-WAY LINE OF ILLINOIS HIGHWAY SBI ROUTE 10 (US HIGHWAY ROUTE 150/FAP 808) (ILLINOIS HIGHWAY ROUTE 130) ALSO CALLED UNIVERSITY AVENUE, SAID POINT BEING LOCATED 93.17 FEET RIGHT OF SAID URBANA SPUR OF INTERSTATE HIGHWAY ROUTE 74 CENTER LINE STATION 16+50. FROM SAID POINT OF BEGINNING, THENCE NORTH 71 DEGREES 54 MINUTES 55 SECONDS EAST 255.00 FEET ALONG SAID SOUTHERLY AND EASTERLY RIGHT-OF-WAY LINE OF THE URBANA SPUR TO A POINT OF CURVATURE BEING LOCATED 90 FEET RIGHT OF SAID URBANA SPUR CENTER LINE STATION 19+00; THENCE NORTHEASTERLY ALONG SAID SOUTHERLY AND EASTERLY RIGHT-OF-WAY LINE OF THE URBANA SPUR 40.11 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHWEST WITH A RADIUS OF 4,673.66 FEET AND THE 40.11 FOOT CHORD OF SAID ARC BEARS NORTH 70 DEGREES 45 MINUTES 32 SECONDS EAST ; THENCE SOUTH 02 DEGREES 27 MINUTES 12 SECONDS WEST 59.50 FEET; THENCE SOUTH 87 DEGREES 32 MINUTES 48 SECONDS EAST 15.00 FEET; THENCE SOUTH 02 DEGREES 27 MINUTES 12 SECONDS WEST 118.50 FEET; THENCE SOUTH 17 DEGREES 27 MINUTES 09 SECONDS WEST 114.66 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ILLINOIS HIGHWAY SBI ROUTE 10 (US HIGHWAY ROUTE 150/FAP 808) (ILLINOIS HIGHWAY ROUTE 130); THENCE NORTH 87 DEGREES 34 MINUTES 22 SECONDS WEST 150.00 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO A POINT LOCATED 26.689 METERS [81.00 FEET] LEFT OF SAID ILLINOIS HIGHWAY WAY SBI ROUTE 10 (US HIGHWAY ROUTE 150/FAP 808) (ILLINOIS HIGHWAY ROUTE 130) CENTER

LINE STATION 29+083.459; THENCE NORTH 46 DEGREES 43 MINUTES 56 SECONDS WEST 93.46 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO A POINT LOCATED 27.432 METERS [90.00 FEET] LEFT OF SAID CENTER LINE, STATION 29+046.122; THENCE NORTH 15 DEGREES 46 MINUTES 24 SECONDS WEST 129.96 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING, CONTAINING 1.37 ACRES, MORE OR LESS, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

PIN: 30-21-09-476-002; and

WHEREAS, the City Clerk of Urbana, Illinois, duly published notice on the 16th day of May, 2012 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 4th day of June, 2012; and

WHEREAS, the City of Urbana, Illinois also mailed notice of the public hearing to the Chief and each of the Trustees of the Edge Scott Fire Protection District on the 18th day of May, 2012; and

WHEREAS, on the 24th day of May, 2012, the Urbana Plan Commission held a public hearing on the proposed rezoning in the Annexation Agreement and voted 8 ayes and 0 nays to forward a recommendation of approval to the Urbana City Council; and

WHEREAS, on the 4th day of June, 2012, 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 Town & Country Illinois LLC, 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:

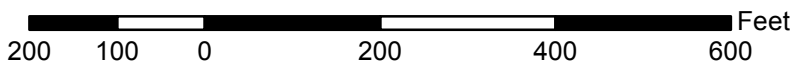
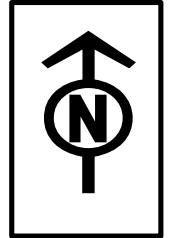
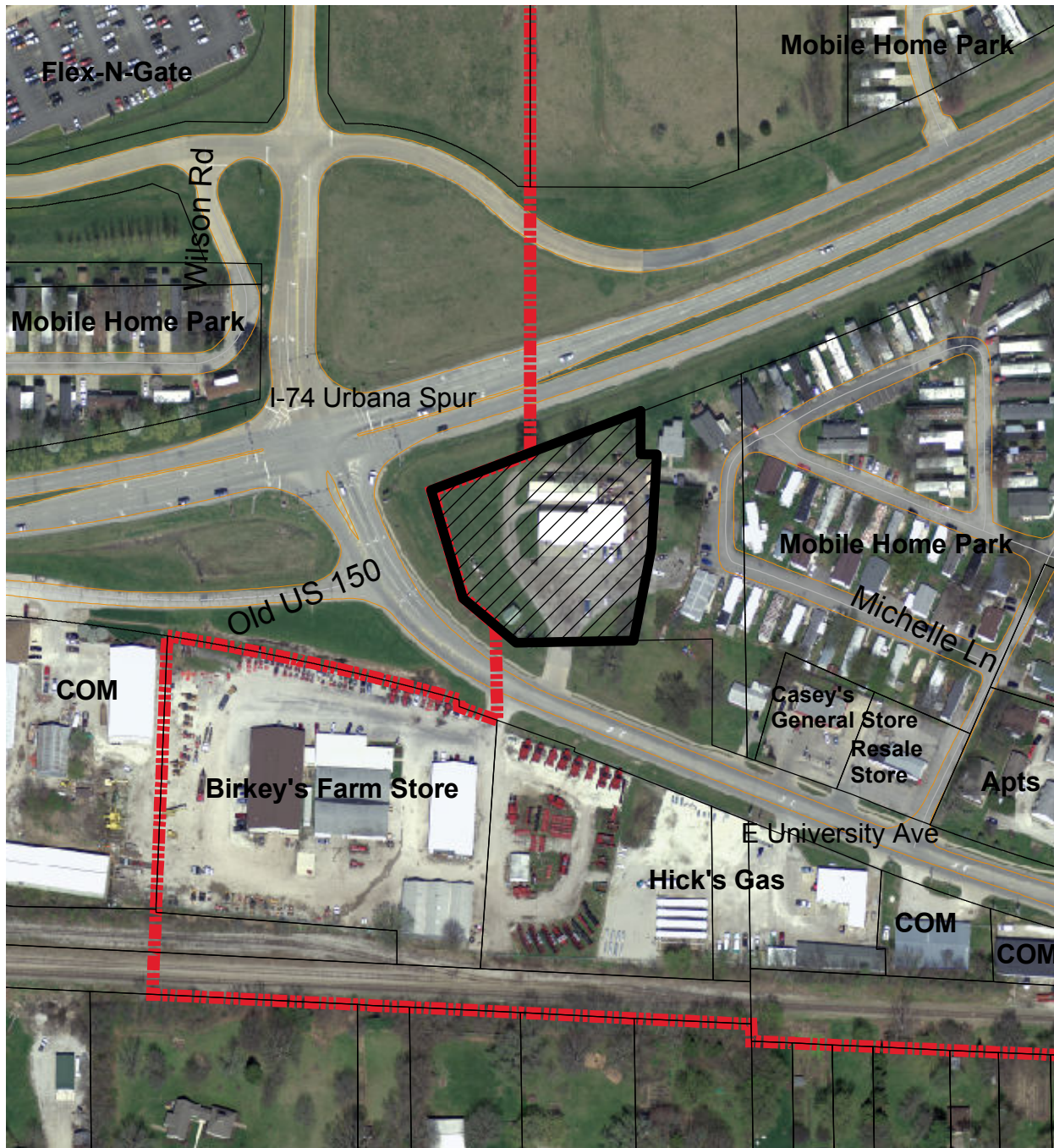
ABSTAINS:

Phyllis D. Clark, City Clerk

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

Laurel Lunt Prussing, Mayor

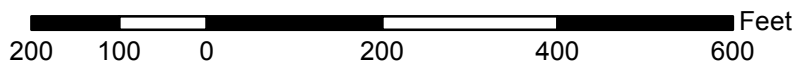
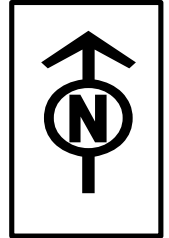
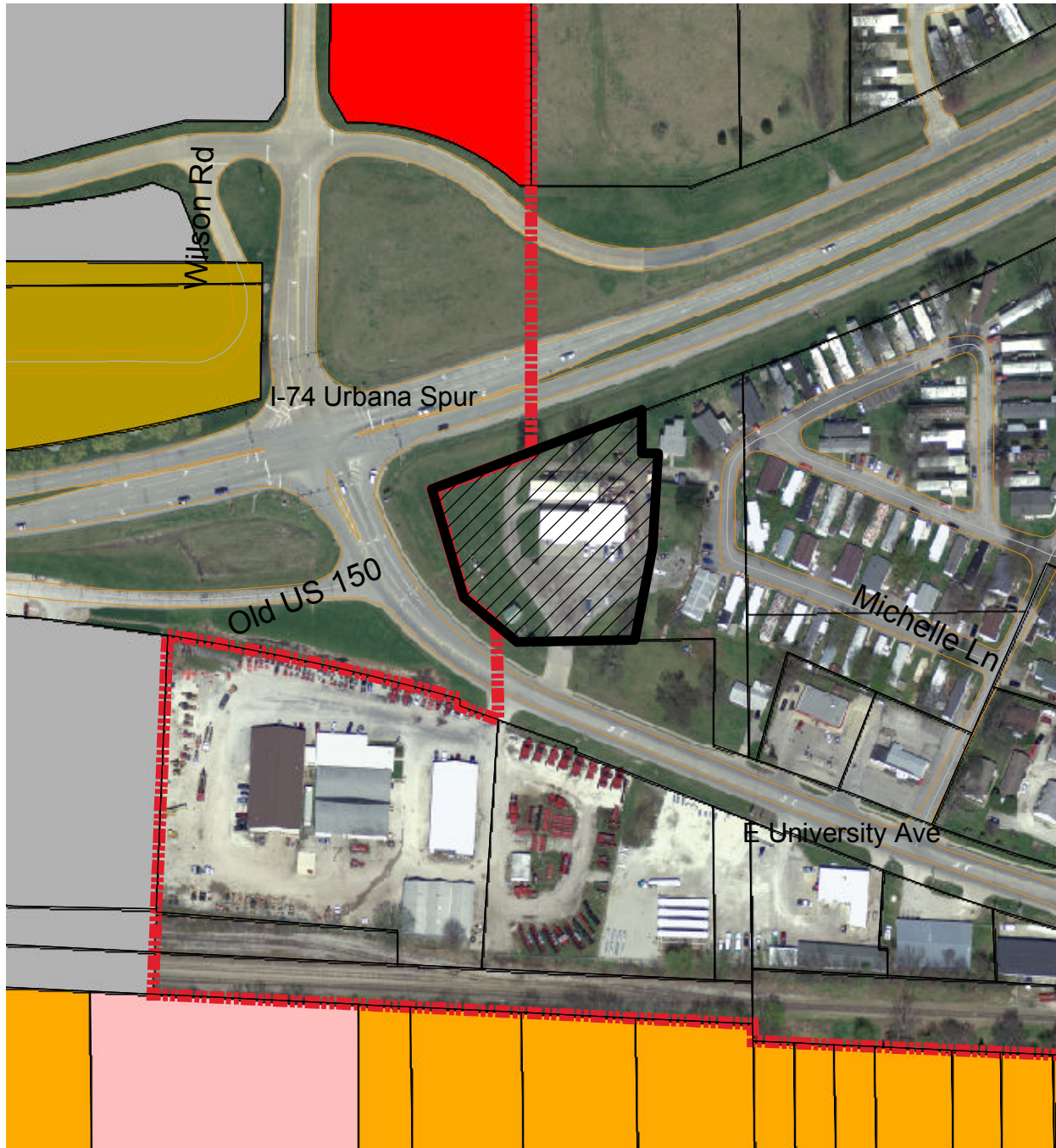
Exhibit A: Location & Existing Land Use Map



Case: 2012-A-02 & 2178-M-12
Subject: Annexation Agreement
& Rezoning
Location: 2100 E University Ave, Urbana
Petitioner: 30-21-09-476-002


 Subject Property
 Corporate Limits


Exhibit B: Zoning Map



Case: 2012-A-02 & 2178-M-12
 Subject: Annexation Agreement
 & Rezoning
 Location: 2100 E University Ave, Urbana
 Petitioner: 30-21-09-476-002

Prepared 5/17/2012 by Community Development Services - rlb

 Subject Property

 Corporate Limits






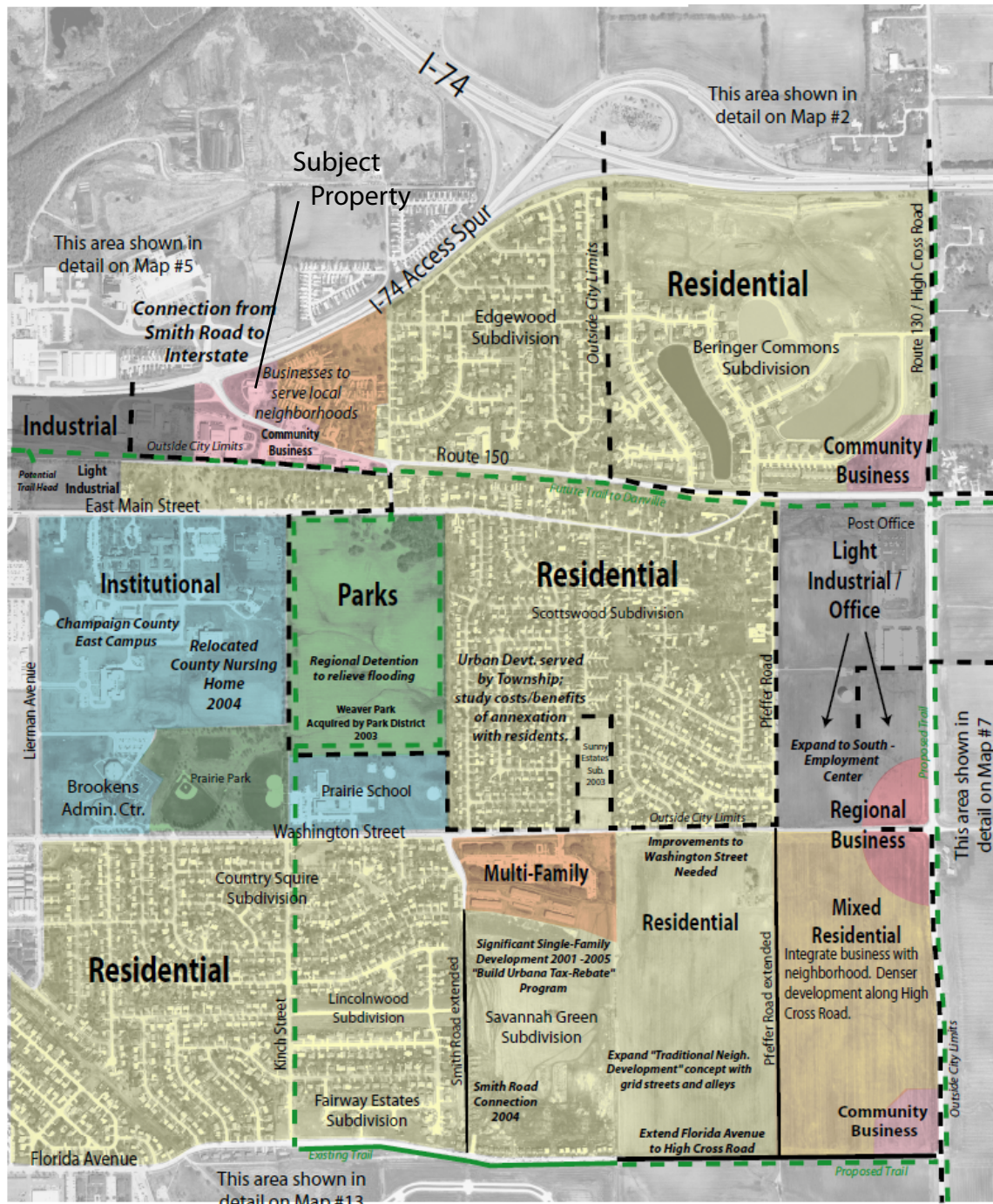
 B1	 R3
 B3	 R4
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Exhibit C: Future Land Use Map



Case: 2012-A-02 & 2178-M-12
 Subject: Annexation Agreement & Rezoning
 Location: 2100 E University Ave, Urbana
 Petitioner: 30-21-09-476-002

Prepared 5/17/2012 by Community Development Services - rlb

Annexation Agreement

(Town & Country – Illinois L.L.C.)

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 Town & Country – Illinois L.L.C. (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, Town & Country – Illinois L.L.C. is the Owner of record of a certain 1.37-acre parcel of real estate located at 2100 East University Avenue, Urbana, Illinois, and having permanent index number 30-21-09-476-002, the legal description of which real estate is set forth in Exhibit B attached hereto and referenced herein as "the tract"; and

WHEREAS, the attached map, labeled Exhibit A, 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 B-2, Neighborhood Business Zoning District in Champaign County and the City and the Owners find it necessary and desirable that the tract be annexed to the City with a zoning classification of B-2, Neighborhood Business – Arterial Zoning District, 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 as B-2, Neighborhood Business – Arterial, generally reflects the goals, objectives and policies set forth in the City's 2005 Urbana Comprehensive Plan, as amended from time to time, and which Plan designates the future land use as "Community Business"; 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 approval of this agreement by the Urbana Corporate Authorities cause the tracts 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 B-2, Neighborhood Business Zoning District to City B-2, Neighborhood Business – Arterial 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. Land Uses. The Owner agrees that the uses of the tract shall be limited to those allowed by the Urbana Zoning Ordinance within the B-2, Neighborhood Business - Arterial Zoning District either by right, by Special Use Permit, or by Conditional Use Permit, as the case may be.

Section 5. Building Code Compliance. The Owner agrees to cause all new development, construction, remodeling or building additions on said tracts to be in conformance with all applicable City of Urbana codes and regulations including building, zoning and subdivision codes.

Section 6. 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 tracts without written amendment to this Agreement.

Section 7. Amendments Required. The Owner represents that it is a duly organized, valid, and existing limited liability corporation of the State of Illinois and the person(s) signing this agreement on behalf of the owner has been duly authorized by the limited liability corporation to sign the agreement on its behalf.

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 B-2, Neighborhood Business - Arterial.

Section 3. 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 tracts, 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 tracts 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. 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.

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

Date

ATTEST:

Phyllis D. Clark
City Clerk

Date

Owner

[Handwritten Signature]

my mbr

Date

ATTEST:

[Handwritten Signature]

Notary Public

Date

CYNTHIA J. CARTER
NOTARY PUBLIC, KALAMAZOO COUNTY, MI
ACTING IN THE COUNTY OF KALAMAZOO
MY COMMISSION EXPIRES MAR. 03, 2015

Exhibit A
Map of Tract

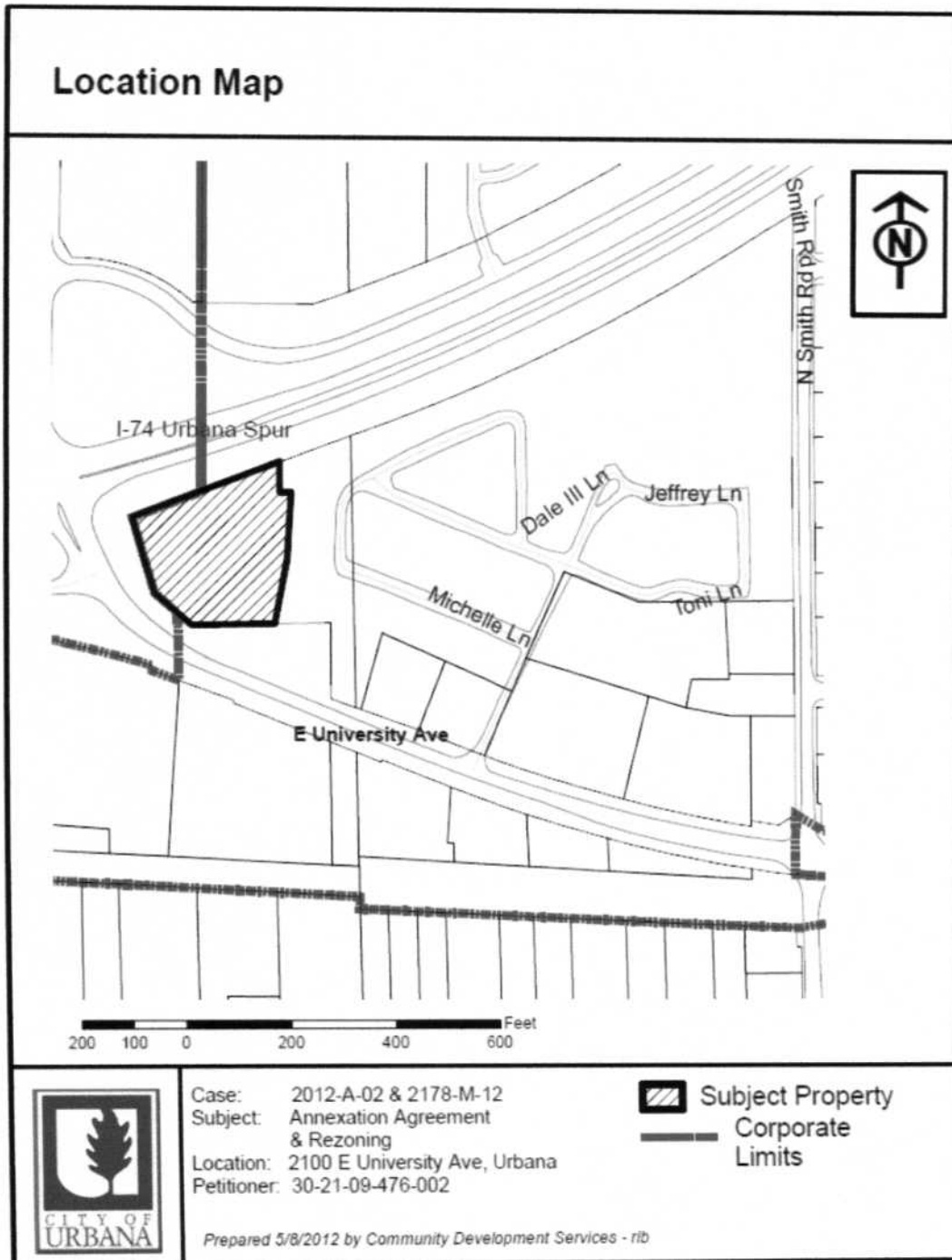


Exhibit B Legal

Description

LEGAL DESCRIPTION

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY AND EASTERLY RIGHT-OF-WAY LINE OF THE URBANA SPUR OF INTERSTATE HIGHWAY ROUTE 74 (FA ROUTE 11) WITH THE NORTHERLY RIGHT-OF-WAY LINE OF ILLINOIS HIGHWAY SBI ROUTE 10 (US HIGHWAY ROUTE 150/FAP 808) (ILLINOIS HIGHWAY ROUTE 130) ALSO CALLED UNIVERSITY AVENUE, SAID POINT BEING LOCATED 93.17 FEET RIGHT OF SAID URBANA SPUR OF INTERSTATE HIGHWAY ROUTE 74 CENTER LINE STATION 16+50. FROM SAID POINT OF BEGINNING, THENCE NORTH 71 DEGREES 54 MINUTES 55 SECONDS EAST 255.00 FEET ALONG SAID SOUTHERLY AND EASTERLY RIGHT-OF-WAY LINE OF THE URBANA SPUR TO A POINT OF CURVATURE BEING LOCATED 90 FEET RIGHT OF SAID URBANA SPUR CENTER LINE STATION 19+00; THENCE NORTHEASTERLY ALONG SAID SOUTHERLY AND EASTERLY RIGHT-OF-WAY LINE OF THE URBANA SPUR 40.11 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHWEST WITH A RADIUS OF 4,673.66 FEET AND THE 40.11 FOOT CHORD OF SAID ARC BEARS NORTH 70 DEGREES 45 MINUTES 32 SECONDS EAST ; THENCE SOUTH 02 DEGREES 27 MINUTES 12 SECONDS WEST 59.50 FEET; THENCE SOUTH 87 DEGREES 32 MINUTES 48 SECONDS EAST 15.00 FEET; THENCE SOUTH 02 DEGREES 27 MINUTES 12 SECONDS WEST 118.50 FEET; THENCE SOUTH 17 DEGREES 27 MINUTES 09 SECONDS WEST 114.66 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ILLINOIS HIGHWAY SBI ROUTE 10 (US HIGHWAY ROUTE 150/FAP 808) (ILLINOIS HIGHWAY ROUTE 130); THENCE NORTH 87 DEGREES 34 MINUTES 22 SECONDS WEST 150.00 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO A POINT LOCATED 26.689 METERS [81.00 FEET] LEFT OF SAID ILLINOIS HIGHWAY WAY SBI ROUTE 10 (US HIGHWAY ROUTE 150/FAP 808) (ILLINOIS HIGHWAY ROUTE 130) CENTER LINE STATION 29+083.459; THENCE NORTH 46 DEGREES 43 MINUTES 56 SECONDS WEST 93.46 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO A POINT LOCATED 27.432 METERS [90.00 FEET] LEFT OF SAID CENTER LINE, STATION 29+046.122; THENCE NORTH 15 DEGREES 46 MINUTES 24 SECONDS WEST 129.96 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING, CONTAINING 1.37 ACRES, MORE OR LESS, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

Permanent Index No. 30-21-09-476-002

Commonly known as 2100 East University Avenue, Urbana, Illinois.

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

DRAFT

DATE: May 24, 2012

TIME: 7:30 P.M.

PLACE: Urbana City Building – City Council Chambers
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Carey Hawkins-Ash, Andrew Fell, Tyler Fitch, Dannie Otto, Michael Pollock, Bernadine Stake, Mary Tompkins, Marilyn Upah-Bant

MEMBERS EXCUSED: Lew Hopkins

STAFF PRESENT: Robert Myers, Planning Manager; Rebecca Bird, Planner II; Jeff Engstrom, Planner II

OTHERS PRESENT: Ron Birkey, Pat Moone, Dan Noel, Kasheem Tanksley, Susan Taylor

NEW PUBLIC HEARINGS

Annexation Case No. 2012-A-02: Annexation Agreement for a 1.37-acre tract of property at 2100 East University Avenue.

Plan Case No. 2178-M-12: Request to rezone a 1.37-acre tract of property at 2100 East University Avenue from Champaign County B-2 (Neighborhood Business) to City B-2 (Neighborhood Business – Arterial) upon annexation.

Rebecca Bird, Planner II, presented both cases to the Plan Commission. She began with a brief explanation for the proposed rezoning and annexation agreement. She identified the subject property as well as the adjacent properties surrounding it by noting the existing land uses, zoning and future land use designations of each. She reviewed the LaSalle National Bank Criteria that pertains to the proposed rezoning. She talked about the options of the Plan Commission and presented staff's recommendation.

The Plan Commission inquired about the access drive to the proposed site. Casey's may want a larger or an additional curb cut for ingress and egress of the site. Robert Myers, Planning Manager, explained that the developer's engineer and Assistant City Engineer have indicated

that the Illinois Department of Transportation (IDOT) will most likely allow one access drive along U.S. Route 150.

With no further questions for City staff, Chair Pollock opened the hearing for public input and or questions.

Patrick Moone, of the Farnsworth Group, stated that they indeed plan to install one access drive that will be 35-feet wide. After reviewing the Concept Plan, IDOT's only request is that the drive be lined up with the driveway across U.S. Route 150.

He then talked about Casey's plans to have a convenience store, sub shop, pizza shop and gas station in one place. It will be nicer than what they have built in the past. They are currently working on the landscaping plans to buffer the residential neighboring properties from the proposed site. He also mentioned that they plan to decommission the existing Casey's down the street once the new one is up and running.

With no further input or questions from the public audience, Chair Pollock closed the public hearing. He then opened the hearing up for Plan Commission discussion and motion(s).

Mr. Fitch moved that the Plan Commission forward Annexation Case No. 2012-A-02 and Plan Case No. 2178-M-12 to the City Council with a recommendation for approval. Mr. Ash seconded the motion. Roll call on the motion was as follows:

Mr. Ash	-	Yes	Mr. Fell	-	Yes
Mr. Fitch	-	Yes	Mr. Otto	-	Yes
Mr. Pollock	-	Yes	Ms. Stake	-	Yes
Ms. Tompkins	-	Yes	Ms. Upah-Bant	-	Yes

The motion was passed by unanimous vote.