



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

memorandum

TO: Bruce K. Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director

DATE: January 12, 2006

SUBJECT: Plan Case No. 1871-A-03: Request to revise an approved Annexation Agreement for the Prairie Winds Development located on the south side of Colorado Avenue approximately 394 feet east of Philo Road.

Introduction

This case is a proposal to revise an approved Annexation Agreement and Planned Unit Development for a Supportive Living Facility in southeast Urbana. The proposed revision calls for an increase in size of the Supportive Living Facility from 49,000 square feet to 68,000 square feet with a resulting increase in Floor Area Ratio. In addition there is a proposed rearrangement of the facilities parking lot with a reduction in the number of spaces provided.

On January 5, 2006, the Urbana Plan Commission conducted a public hearing to consider the case. The Commission voted 7-0 to recommend approval of the revisions to the Annexation Agreement as requested.

Background

On December 1, 2003 the Urbana City Council approved an annexation agreement with John Hingtgen and Virgil Naugle and a development proposal by Paul Tatman for a Planned Unit Development (PUD) on a 31-acre tract commonly referred to as the "Golladay Tract" on the south side of Colorado Avenue extended. The development, called Prairie Winds, has three components: (1) a 70 to 75-unit Senior Retirement Center; (2) 38 residential condominiums in a series of duplexes and four-plexes; and (3) a 29-lot single-family subdivision at the east end of the site abutting the Stone Creek Subdivision. Public infrastructure for the development included the completion of Colorado Avenue to Stone Creek Boulevard along with two new local roads to allow access to the single-family residential subdivision. All of the condominiums would be situated around the interior perimeter of a private "loop" road called Prairie Winds Circle.

The property was annexed in March 2004 and a subdivision was approved for the development. The subdivision was approved with one lot for a Senior Retirement Center, a second lot for all the condominiums (served by a private road), and 29 additional lots for the single-family subdivision. The lots for the Senior Retirement Center and condominiums comprised the boundary of the PUD approval. The single-family subdivision was not a component of the PUD approval.

Since the original approval of the Prairie Winds development there have been two requests for changes to the plan requiring amendments of the Annexation Agreement. In August 2004 the Developer requested a first minor change to the layout of the condominium portion of the PUD. This amendment included changing all the four-plexes to duplexes and adding four additional buildings. On September 20, 2004 the City Council approved the change in the layout.

In January 2005 the Developer proposed a second change to the originally approved agreement and development plan. This time there were two significant revisions requested. The first change was to allow the subdivision of the one lot condominium portion of the PUD to create a common-lot-line subdivision of individually owned lots. In addition variances were granted that would allow the approved building layout to remain intact while allowing the subdivision of the property. The second revision involved having the “loop” road dedicated to the City for ownership and maintenance rather than be privately owned and maintained. This was necessary for the subdivision into common-lot-line units to take place because the Urbana Subdivision and Land Development Code requires that all lots front on a public street. On February 21, 2005 the City Council approved these changes to the Annexation Agreement and development plan. The only portion of the development now considered a PUD is the lot designated for the Senior Retirement Center.

The Senior Retirement Center development is now approved and certified by the State of Illinois as a “Supportive Living Facility” which permits the State Medicaid program to pay a portion of rent and expenses for the residents. In addition the “certification” contributes to the affordability of the project by allowing the project to use tax exempt bonds issued with City of Urbana cooperation but without any debt obligation or risk to the City. The Urbana City Council has indicated the City’s support for the 92-unit Supportive Living Facility by passing an “Inducement Resolution” declaring the official intent to participate in issuing the tax exempt bonds.

Issues and Discussion

Proposed Revision

The Developer is requesting additional minor revisions to the Annexation Agreement and development plan. The new changes to the development only involve the Senior Retirement Center which the developer now refers to as a Supportive Living Facility. The changes proposed are as follows:

- ❑ An increase in the size of the facility from 75 units to 92 units. (beds)
- ❑ An increase in the floor area from 49,000 square feet to roughly 68,000 square feet.
- ❑ A Floor Area Ratio increase from 0.20 to 0.28.
- ❑ A rearranged parking layout with a decrease in spaces provided from 62 spaces to 56 spaces.

These represent changes to the text of the Annexation Agreement’s addendum entitled - “Residential Planned Unit Development (PUD) Site Plan and Project Data”. A revised version is attached and labeled as Attachment #5. In the attached exhibits, deleted text is shown as ~~deleted~~ and new text is shown as **bold**. A revised Site Plan of the Supportive Living Facility is attached and labeled as Attachment #4.

Analysis of Proposed Change

The proposed changes do not affect the common-lot-line townhouses in the development or the roadway layout. Street access provisions to and from the Supportive Living Facility are unchanged.

The Floor Area Ratio is still less than the maximum permitted .40 for the R-2 zoning district. Parking provided will still exceed the 43 spaces required by the Urbana Zoning Ordinance. There are no changes proposed to any of the requirements for fencing or landscape buffering to neighboring properties. The Annexation Agreement requires the Developer to provide a landscape buffer along the south side and west sides of the parking lots for the Senior Retirement Center. The landscape buffer will be dense enough to effectively visually screen the parking lot from neighboring properties.

Summary of Findings

On January 5, 2006 the Plan Commission adopted the following findings:

1. The proposed revisions to the originally approved annexation agreement for the Prairie Winds development are generally consistent with the original approval granted in December 2003 and the subsequent revisions in September 2004 and February 2005.
2. The proposed changes involve the size of the Supportive Living Facility and its parking lot, and no changes are proposed beyond the Supportive Living Facility PUD lot.
3. The proposed changes involve no requests for variances to the requirements of the Urbana Zoning Ordinance, or waivers from the Urbana Subdivision and Land Development Code.
4. The proposed changes should not have a detrimental impact to the development, neighboring properties or the zoning district in which they are located.
5. The proposed changes should not be detrimental to the overall public health, safety or general welfare.
6. The City of Urbana has indicated its support for the 92-unit Supportive Living Facility by passing an "Inducement Resolution" declaring the official intent to participate in issuing the tax exempt bonds.
7. The proposed change is generally consistent with the 2005 Urbana Comprehensive Plan.

Options

The City Council has the following options. In Plan Case 1871-A-03, the City Council may:

- a. approve the proposed amendments to the Prairie Winds Annexation Agreement;
- b. approve the proposed amendments to the Prairie Winds Annexation Agreement with additional modifications, (The Developers must be in agreement with the modifications);
- c. deny the proposed amendments to the Prairie Winds Annexation Agreement.

Recommendation

Based on the evidence in the discussion above and presented at the public hearing conducted on January 5, 2006, the Urbana Plan Commission voted 7-0 to recommend that the City Council **APPROVE** the revision to the Prairie Winds annexation Agreement in Plan Case 1871-A-03 as presented. City planning Staff concurs with the recommendation.

Prepared by:

Paul Lindahl, Planner I

Attachments:

- Draft Ordinance
- Draft Minutes of January 5, 2006 Urbana Plan Commission hearing
- #1, Location Map
- #2, Approved Plat of Development
- #3, Approved PUD Development Site Plan (March 2005)
- #4, Proposed revised Supportive Living Facility General Site Plans.
- #5, Revised Annexation Agreement addendum entitled Site Plan and Project
Data for Residential PUD
- #6, Draft Revised Annexation Agreement (with revised exhibits)
- #7, Neighborhood Notification

CC: Paul Tatman, Developer

Chuck Guthrie, BWC Engineers

ORDINANCE NO. 2006-01-008

An Ordinance Approving a Third Revision to an Annexation Agreement
(Hingtgen and Naugle Annexation / South side of Colorado Avenue approximately 394 feet
east of Philo Road - Plan Case 1871-A-03)

WHEREAS, an Annexation Agreement between the City of Urbana, Illinois and John Hingtgen, Virgil Naugle and Tatman Enterprises, Inc. was approved on December 1, 2003 under Ordinance 2003-12-139; and,

WHEREAS, said agreement governs a tract totaling approximately 31 acres on three separate tracts located on the south side of Colorado Avenue approximately 394 feet east of Philo Road: and,

WHEREAS, the approved agreement included a Senior Retirement Center as a part of a Planned Unit Development (PUD) at the west end of the development area; and

WHEREAS, On September 20, 2004 the Urbana City Council approved revisions to the annexation agreement under Ordinance No. 2004-09-127; and,

WHEREAS, On February 21, 2005 the Urbana City Council approved further revisions of the annexation agreement under Ordinance No. 2005-02-024; and,

WHEREAS, the developer has determined that additional minor amendments to the annexation agreement are again necessary; and

WHEREAS, the proposed amendments pertain only to the Senior Retirement Center Planned Unit Development (PUD); and

WHEREAS, the proposed amendments include: 1) An increase in the size of the facility from 75 units to 92 units (beds); 2) An increase in the floor area from 49,000 square feet to roughly

68,000 square feet; 3) A Floor Area Ratio increase from 0.20 to 0.28; and 4) A rearranged parking layout with a decrease in spaces provided from 62 spaces to 56 spaces; and

WHEREAS, the proposed amendments represent changes to the text of the Annexation Agreement's addendum entitled - "Residential Planned Unit Development (PUD) Site Plan and Project Data"; and

WHEREAS, On January 5, 2006 the Urbana Plan Commission conducted a public hearing to consider the proposed amendments; and,

WHEREAS, The Urbana Plan Commission has determined that the proposed revised Annexation Agreement is generally consistent with the 2005 Urbana Comprehensive Plan; and,

WHEREAS, after public testimony the Plan Commission voted 7-0 to make a recommendation of approval to the Urbana City Council; and,

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

Section 1. That the revised Annexation Agreement for the Hingtgen and Naugle Annexation Agreement and Prairie Winds development, a copy of which is attached and hereby incorporated by reference, is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, is hereby authorized to execute and deliver, and the City Clerk of the City of Urbana, Illinois, is hereby authorized to attest to said execution of said Annexation Agreement, for and on behalf of the City of Urbana, 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 _____, 2006.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2006.

Laurel Lunt Prussing, Mayor

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

DRAFT

DATE: January 5, 2006

TIME: 7:30 P.M.

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

MEMBERS PRESENT: Laurie Goscha, Benjamin Grosser, Lew Hopkins, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant, James Ward

MEMBERS EXCUSED: Jane Burris, Don White

STAFF PRESENT: Elizabeth Tyler, Community Development Director; Robert Myers, Planning Manager; Paul Lindahl, Planner I; Matt Wempe, Planner I; Tony Weck, Recording Secretary

OTHERS PRESENT: Tom Berns, Mark Seaman, Paul Tatman, Carl Webber

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

The meeting was called to order at 7:32 p.m., the roll call was taken, and a quorum was declared.


2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

The minutes of the 12/8/05 meeting were approved with no changes by unanimous voice vote.

4. WRITTEN COMMUNICATIONS

 Letter from Don Flessner supporting Plan Case No. 1966-S-05

5. CONTINUED PUBLIC HEARINGS

There were none.

6. OLD BUSINESS

There was none.

7. NEW PUBLIC HEARINGS

Plan Case No. 1871-A-03: Request to revise an approved Annexation Agreement for the Prairie Winds Development located on the south side of Colorado Avenue approximately 394 feet east of Philo Road.

Paul Lindahl, Planner I, presented the staff report for the proposed Annexation Agreement revision case to the Plan Commission. He began with a brief description of the background of the case. He showed the site plan and the requested changes. He talked about the purpose for the proposed changes and summarized staff findings. Mr. Lindahl presented and reviewed staff's recommendation, which was as follows:

City staff recommended that the Plan Commission forward this case to the Urbana City Council with a recommendation for approval as presented.

With the Staff Report presented, Mr. Pollock opened a public hearing regarding this Plan Case. Ms. Stake inquired as to the amount of open space that would be included in the revised Annexation Agreement. Mr. Lindahl answered that plenty of open space would remain a part of the development. The question was also posed with regards to buffering between the parking lot and adjacent residences. Mr. Lindahl answered that greenery of a sufficient size and nature would be planted so as to effectively screen off the parking lot from the view of adjacent residences.

The petitioner, Paul Tatman addressed the Commission briefly, showing photos of a similar development that his firm had completed in Decatur, Illinois. Mr. Grosser addressed one question to Mr. Tatman regarding the screening of any garbage collection facilities on the grounds. Mr. Tatman answered that any dumpsters would be screened off by appropriate fencing.

With no further comment coming from the Commission or petitioner, Mr. Pollock closed the public hearing. Mr. Ward moved that the Plan Commission forward the request for revision to the City Council with a recommendation for approval as presented. Ms. Goscha seconded the motion. Roll call was taken and was as follows:

Ms. Goscha	-	Yes	Ms. Stake	-	Yes
Mr. Grosser	-	Yes	Ms. Upah-Bant	-	Yes
Mr. Hopkins	-	Yes	Mr. Ward	-	Yes
Mr. Pollock	-	Yes			

The motion was passed by a vote of 7-0. The anticipated date of City Council consideration is January 17, 2006.

Plan Case No. 1966-S-05: Final Plat of Jarrett Acres Subdivision located at the 3500 block of East Oaks Road (County Road 1850N).

Mr. Lindahl presented the staff report for the proposed Final Plat to the Plan Commission. He began with a brief discussion on the layout of the subdivision. The manner in which the petitioners wish to lay out the three lots would require a waiver to the subdivision code. According to the Subdivision Ordinance, whenever there is a request for a waiver, the subdivision is by definition no longer eligible for review as a Minor development. Mr. Lindahl showed the site plan and the desired layout. He talked about the purpose for the proposed layout and summarized staff findings. Mr. Lindahl further presented and reviewed staff's recommendation, which was as follows:

City staff recommended that the Commission forward this case to the City Council with a recommendation to approve the Final Plat of Jarrett Acres Subdivision including waivers as requested.

Mr. Pollock opened a public hearing regarding this Plan Case and invited any of the petitioners to address the Commission. Mark Seaman, an owner of one of the lots in the proposed subdivision spoke briefly, thanking the Commission for its consideration. Mr. Myers stated that he understood the property had been acquired through inheritance and that it was being subdivided for the three heirs. Mr. Pollock responded that this was correct. Mr. Myers further stated that he believed this was a factor in the subdivision ordinance waiver. Dividing the property equally infers that the three lots would be of equal size. Rather than creating three very long and narrow lots of equal size and road frontage, the proposed use of a flag lot allowed three equal sized lots which were useful.

Having no further comment from the Commission or the petitioners, Mr. Pollock closed the public hearing. Ms. Goscha moved that the Commission forward Plan Case No. 1966-S-05 to the City Council with a recommendation to approve. Ms. Stake seconded the motion. Roll call was taken and was as follows:

Ms. Goscha	-	Yes	Ms. Stake	-	Yes
Mr. Grosser	-	Yes	Ms. Upah-Bant	-	Yes
Mr. Hopkins	-	Yes	Mr. Ward	-	Yes
Mr. Pollock	-	Yes			

The motion was passed by a vote of 7-0. Consideration of these cases with the requested waivers by the City Council is anticipated on January 17, 2006.

Plan Case No. 1970-M-05: Request by Howard Wakeland for a zoning map amendment to rezone 1010-1026 West Main Street, and 1011 West Clark Street from B-3U, General Business – University to CCD, Campus Commercial District

Plan Case No. 1971-SU-05: Request by Howard Wakeland for a Special Use Permit to establish *Multi-family Residential*, and *Professional & Business Office* uses as part of a mixed use development at 1010-1016 West Main Street, and 1011 West Clark Street.

By unanimous vote, consideration of these cases was continued until the next Plan Commission meeting.

Plan Case No. 2005-A-13: Annexation Agreement for a 26.7-acre tract of property, located along the south side of Interstate 74, generally east of the eastern terminus of Killarney Street and generally north of the northern terminus of Country Club Drive/Urbana Golf & Country Club.

Plan Case No. 1972-M-05: Request to rezone a 5.4-acre tract of property located south of Interstate 74, generally east of the eastern terminus of Killarney Street and generally north of the northern terminus of Country Club Drive from Champaign County C-R, Conservation-Recreation Zoning District to City, R-4, Medium Density Multiple Family Residential Zoning District upon annexation.

The staff reports for these cases were presented together by Matt Wempe, Planner I. Mr. Wempe began by giving a brief introduction and background on the case. Aerial views of both parcels to be annexed were shown and Mr. Wempe discussed, among other things, the tax benefits to the City of Urbana of the annexation and development of these parcels. Mr. Wempe further presented and reviewed staff's recommendation, which was as follows:

City staff recommended that, with regards to both Plan Case NO. 2005-A-13 and 1972-M-05, the Commission forward this case to the City Council with a recommendation to approve the proposed Annexation Agreement as presented.

The public hearing regarding these Plan Cases was then opened by Mr. Pollock. Charlie Farner and Steve Snyder addressed the Commission on the particulars of the Planned Unit Development. Mr. Ward inquired as to the length of the access drive to the development. Ms. Tyler stated that the length of the drive was not seen as problematic by the City Engineer and that a second access point was not seen as warranted. Mr. Grosser expressed concern with regards to tree conservation in the area and Mr. Snyder responded that as many trees as possible would be preserved. Tom Berns further commented that many of the trees near the development, which lie along the Saline Branch, have been there since the Branch was constructed in approximately 1902. Concern was also expressed by the Commission with regards to emergency access to the development, especially considering that there would be only the one access road to it. Mr. Berns responded that, while it may not be desirable, fire trucks and other emergency vehicles could simply drive across the grass to get to the building in the event of an emergency. Mr. Snyder also noted that the building would be fully equipped with fire sprinklers and would be of a fire resistant design.

Having no further comment from the Commission or petitioners, Mr. Pollock closed the public hearing and Ms. Stake moved that the Commission forward Case No. 2005-A-13 to the City Council with a recommendation to approve. Mr. Grosser seconded the motion. Roll call was taken and was as follows:

Ms. Goscha	-	Yes	Ms. Stake	-	Yes
Mr. Grosser	-	Yes	Ms. Upah-Bant	-	Yes
Mr. Hopkins	-	Yes	Mr. Ward	-	Yes

Mr. Pollock - Yes

The motion was passed by a vote of 7-0. It is anticipated that the City Council would consider the case at their January 23, 2006 meeting.

In the matter of Case No. 1972-M-05, Ms. Stake moved that the Commission forward the case to the City Council with a recommendation to approve. Mr. Grosser seconded the motion. Roll call was taken and was as follows:

Ms. Goscha	-	Yes	Ms. Stake	-	Yes
Mr. Grosser	-	Yes	Ms. Upah-Bant	-	Yes
Mr. Hopkins	-	Yes	Mr. Ward	-	Yes
Mr. Pollock	-	Yes			

The motion was passed by a vote of 7-0. The anticipated date for City Council consideration of this case is January 23, 2006.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Mr. Myers briefed the Commission on upcoming projects as well as those currently underway by Planning Staff.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

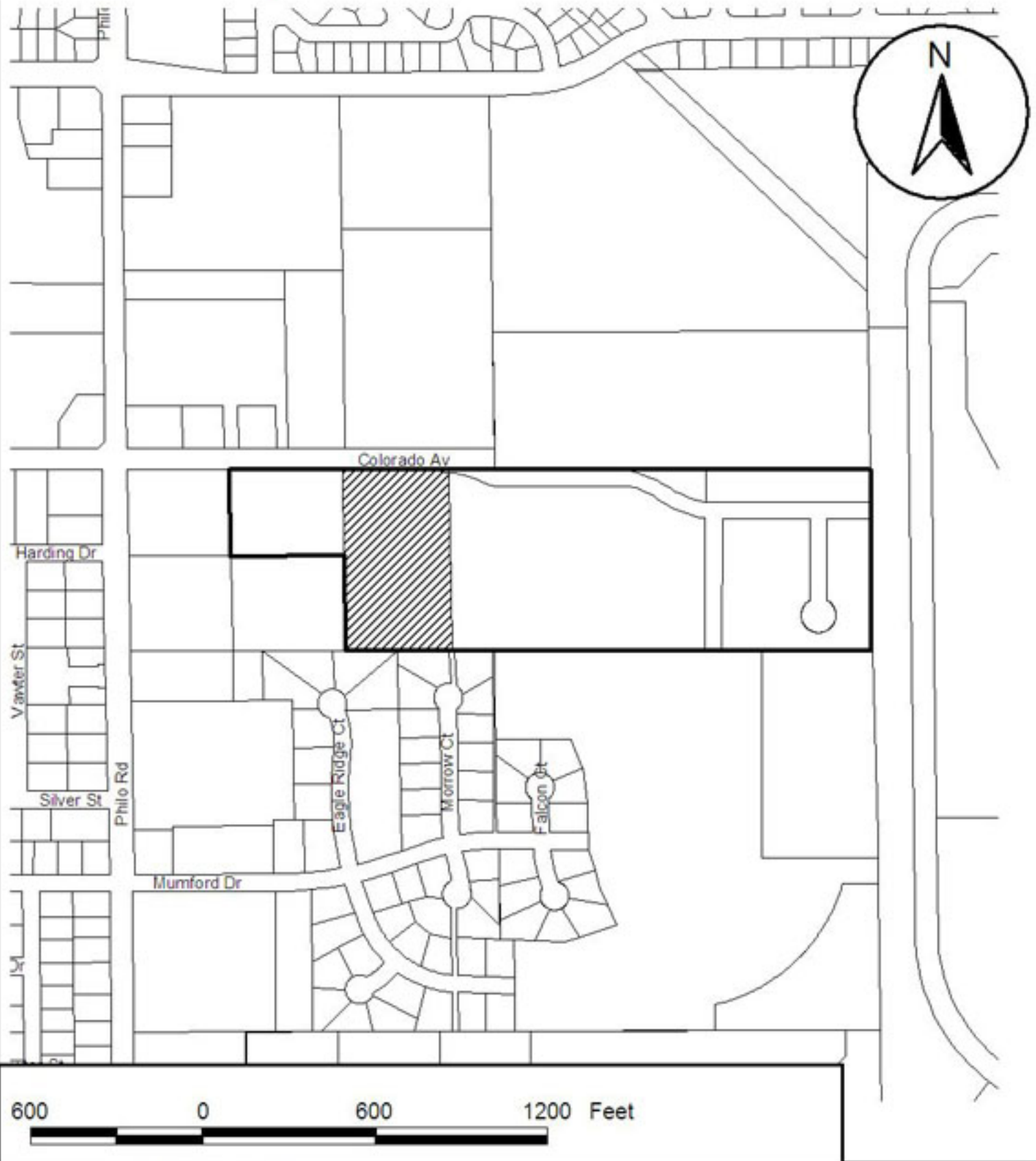
Chair Pollock adjourned the meeting at 8:50 p.m.

Respectfully submitted,

Robert Myers, Planning Division Manager
 Urbana Plan Commission

Location Map

Exhibit "A"



Plan Case: 1871-A-03
Petitioner: Paul Tatman
Location: 1701 E. Colorado Ave
Zoning: R-2 Single Family Residential
Description:
A PROPOSED REVISION TO A PLANNED UNIT
DEVELOPMENT (PUD) AND ANNEXATION AGREEMENT

Prepared 12/20/05 by Community Development Services - pal

 Subject Property

 Area Affected

Hingtgen & Naugle
Amended Annexation Agreement

THIS Agreement, originally made and entered into by and between the City of Urbana, Illinois, (herein after sometimes referred to collectively as the "Corporate Authorities" or the "City") and John J. Hingtgen and Virgil J. Naugle (hereinafter referred to as the "Owners") and the Paul Tatman (hereinafter referred to "Developer") was adopted and executed under Ordinance No. 2003-12-139 on December 1, 2003.

WITNESSETH:

WHEREAS, the Agreement was 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, John J. Hingtgen and Virgil J. Naugle were the original Owners of record of three contiguous real estate tracts totaling approximately 31 acres, located on the South side of Colorado Avenue east of Philo Road, and having permanent index numbers of 30-21-21-200-026, 30-21-21-200-034, and 30-21-21-200-035 the legal descriptions of which real estate is set form in Exhibit "A" attached hereto; and

WHEREAS, the attached map, labeled Exhibit "B", is a true and accurate representation of the tracts that were annexed to the City of Urbana under the provisions of this agreement; and

WHEREAS, subsequent to annexation on March 15, 2004 the Owners sold Tracts II and III to Paul Tatman (Developer) to develop a Senior Retirement Center as a Residential Planned Unit Development (PUD), 42 residential condominiums as a Common-lot-line Residential Development, and a single-family residential subdivision as described in the this agreement; and

WHEREAS, the original Owners retained ownership of Tract I with the intention of constructing a banquet center that will serve the neighboring funeral home and require business zoning; and

WHEREAS, all three tracts are contiguous to the City of Urbana, and said Owners and the City determined that immediate annexation of the tracts was in the best interest of both parties; and

WHEREAS, Tracts II and III as described in Exhibit "A" were directly converted to City R-2, Single-Family Residential Zoning upon annexation under the terms and provisions of the Urbana Zoning Ordinance and this agreement; and

WHEREAS, the City and Owners found it necessary and desirable that Tract I, as described in Exhibit "A" be rezoned to the B-3, General Business Zoning District upon annexation for the future purposes of constructing a banquet center to be used in conjunction with the adjacent funeral home under the terms and provisions of the Urbana Zoning Ordinance and this agreement; 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 Owners and Developer desire to have the aforementioned real estate annexed to the City of Urbana upon certain terms and conditions hereinafter set forth in this Agreement; and

WHEREAS, Tracts II and III as described herein were annexed to the City of Urbana under Ordinance 2004-03-024 on March 15, 2004; and

WHEREAS, the Owner of Tracts II and III, Paul Tatman, has proposed amendments to the originally approved annexation agreement that affect the terms and provisions of only Tracts II and III as described herein.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH HEREIN, THE PARTIES AGREE THE ORIGINAL ANNEXATION AGREEMENT IS HEREBY AMENDED TO READ AS FOLLOWS:

ARTICLE I. REPRESENTATIONS AND OBLIGATIONS OF THE OWNERS AND/OR DEVELOPER

The Owners and/or Developer agree to the following provisions:

Section 1. Ownership. The Owners represent that the Owners are the sole record Owner of the tracts described in Exhibit "A" and that the Owners shall, within thirty (30) days of the approval of this agreement 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. Until annexation of the subject tracts occurs, the Owners 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 Owners shall file such written agreement with the City Clerk within thirty (30) days of the signing of such. The City shall furnish to Owner the appropriate form to satisfy this obligation.

The Owners further agree 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 tracts. If the subject tracts are to be platted for subdivision, the Owners agree 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.

Section 2. Title Interests. The Owners represent that there are no mortgages or lien holders or holders of any security interest affecting title to the Tracts I, II and III described herein.

Section 3. Authority to Annex. The Owners agree and hereby stipulate that the City, by its approval, execution or delivery of this Agreement does not in anyway relinquish or waive any authority it may have to annex the Tracts in the absence of this Agreement.

Section 4. Zoning. The Owners agree to accept the direct conversion of the Champaign County R-2, Single-Family Residence Zoning District to the City R-2, Single-Family Residential Zoning District as provided for by the Urbana Zoning Ordinance Section IV-5 and as such exists at the time of annexation for Tracts II and III as described in Exhibit "A". The Owners acknowledge that upon annexation, Tract I as described in Exhibit "A" will be rezoned from the County R-2, Single-Family Residence Zoning District to City B-3 General Business. The Owners agree that, unless changed upon the initiative of the Owners the said City zoning classification for all tracts 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 tracts. The Owners agree to use the tracts only in compliance with the Urbana Zoning Ordinance and this agreement as such may be amended from time to time.

Section 5. Allowed Uses for Tract I. The Owners agree that multi-family residential land uses shall not be permitted on Tract I as described in Exhibit "A" unless the tract is rezoned to a multi-family residential zoning district. Any rezoning of the parcel shall require a public hearing with the Urbana Plan Commission and final approval from the Urbana City Council in accordance with the provisions of the Urbana Zoning Ordinance.

Section 6. Residential Planned Unit Development (PUD) Plan. The Owners/Developer agree that this annexation agreement hereby approves a Special Use Permit to establish a Residential Planned Unit Development (PUD) for Tract II herein called "PUD Tract" and described in Exhibit "A". The Owner/Developer further agrees that the development of the PUD Tract for a Residential Senior Retirement Center shall be in strict conformance to the attached site plan and project data attached hereto as Exhibit "D". The Owner/Developer agrees that any substantial deviations from the approved Residential PUD Plan as determined by the Zoning Administrator shall require an amendment of this agreement. This amendment process shall include a review of the proposed deviations by the Urbana Plan Commission under a public hearing process as described in the Urbana Zoning Ordinance. The Urbana City Council shall make a final determination pertaining to the appropriateness of the proposed deviations to the approved PUD.

The Developer agrees to provide a landscape buffer along the south side and west sides of the parking lots for the Senior Retirement Center. The landscape buffer shall be dense enough to effectively visually screen the parking lot from neighboring properties. The

landscape screen shall include a variety of shrub and/or tree materials that will block headlights year round and trees that will mature to a shade height of 40+ feet. The Developer shall consult with the Urbana City Arborist concerning appropriate plant materials. The City Arborist shall approve the plan and materials shall be planted prior to the issuance of a Certificate of Occupancy for the Senior Retirement Center.

Section 7. Common-Lot Line Residential Development. The Owners/Developer agree that a portion of Tract III immediately east of the described Residential PUD shall be developed as a Common-lot-Line Residential Development with 42 lots/units as illustrated and attached hereto as Exhibit "E". Within this portion of the development the roadway shall be dedicated as public right-of-way and all lots shall front on the public right-of-way. The Corporate Authorities agree to grant specific zoning variances of the Urbana Zoning Ordinance in conjunction with the Common-lot-Line Residential Development as described in Article II Section 6 of this agreement and specific waivers from the Urbana Subdivision and Land Development Code as described in Article II Section 5 of this agreement.

Section 8. Single-Family Residential Subdivision. The Owners/Developer agree that the remaining portion of Tract III east of the described ~~PUD Tract~~ **Common-lot-Line Residential Development** shall be developed as a single-family residential subdivision as illustrated and attached hereto as Exhibit "E". Minor adjustments to the layout of the single-family residential subdivision from the attached site plan in Exhibit "E" may be authorized as final engineering and surveying for the alignment of Colorado Avenue extended is determined. The subdivision must satisfy the requirements of the Urbana Subdivision and Land Development Code as well as the Urbana Zoning Ordinance.

Section 9. Subdivision Plat Preparation. The Developer agrees to prepare Preliminary and Final Subdivision Plats for Development in substantial conformance with the layout shown in the attached site plans and in compliance with the City of Urbana Subdivision and Land Development Code except as waived under Section II.5 of this agreement.

Section 10. Colorado Avenue. The Developer agrees to meet and confer with the Corporate Authorities to negotiate a separate agreement concerning the improvement and completion of Colorado Avenue to a collector level classification of roadway. The agreement shall outline the design specifications for the improvements and shall determine the respective obligations of the Developer, City, and other parties' for the engineering, construction and costs for completing improvements to Colorado Avenue.

The engineering design and construction of Colorado Avenue shall include one eight-foot wide multi-use path instead of the standard requirement of a four-foot sidewalk. The purpose of the path is to connect the existing multi-use path at Philo Road and Colorado Avenue to a planned multi-use path at Colorado Avenue and Stone Creek Boulevard.

Section 11. Other Infrastructure Improvements:

- A. **Right-of-Way Dedication.** The Owners agree to dedicate 33-feet of right-of-way along the south side of Colorado Avenue from the eastern right-of-way line of Philo Road to the eastern parcel line of Tract I. This area includes frontage along the existing Renner-Wikoff funeral home lot and the adjacent Tract I. The purpose of the dedication is to allow future improvements to Colorado Avenue that will upgrade the roadway to a collector-classified street. The right-of-way along the existing Renner-Wikoff funeral home lot and the adjacent Tract I shall be dedicated with the final plat for Tract II and III. The Developer agrees to prepare the proper dedication plats to accomplish the dedication and the City shall record the dedication.

The Developer agrees to assist the Corporate Authorities in coordinating with the neighboring property owner to dedicate the necessary right-of-way consistent with the approved preliminary plat for Stone Creek Subdivision. The Corporate Authorities will prepare and record a plat to dedicate this 60-feet of right-of-way.

- B. **Infrastructure within the Residential Planned Unit Development and the Common-lot Line Residential Development.** The Developer agrees that all infrastructure within the Planned Unit Development shall be constructed to the standards of City codes and ordinances. The Developer further agrees that the roadway to serve the Common-Lot-Line Residential Development shall be dedicated to the public upon recording of the final subdivision plat creating the lots. There shall be on-street parking permitted on only one side of the public road serving the Common-Lot-Line Residential Development. The Corporate Authorities agree to grant waivers to the Subdivision and Land Development Code as specified in Article II Section 5 of this agreement.
- C. **Infrastructure within the Single-Family Residential Subdivision.** The Developer agrees that all infrastructure within the Single-Family Residential Subdivision shall be constructed to the standards specified in the City of Urbana Subdivision and Land Development Code except as waived under Article II, Section 5 of this agreement. In an effort to better connect local streets with residential neighborhoods, the Developer agrees to extend one of the proposed cul-de-sac streets to the south property line in order to connect to a potential local street in the Eagle Ridge Subdivision. Such a connection will require the willingness of the Developer of the Eagle Ridge Subdivision to amend the approved Eagle Ridge Subdivision Preliminary Plat in order to provide the connection. The Developer agrees to work with the City and the Developer of the Eagle Ridge Subdivision to consider this connection. The opportunity to make the roadway connection shall be considered at the time the Developer requests Preliminary Plat approval for the Single-Family Residential Subdivision. In the event a roadway connection cannot be accomplished, the Developer agrees to accommodate a five-foot wide walkway between two single-family residential

lots on the south side of the development in order to connect future pedestrian sidewalk facilities from the Eagle Ridge Subdivision to the sidewalk along the proposed roadway. The exact location shall be determined by the Developer and City Engineer upon platting of the single-family residential subdivision. The width of the sidewalk shall be five feet within a 10-foot dedicated right-of-way and meet all construction standards for sidewalks in the Subdivision and Land Development Code.

Section 12. Timing of Construction. The Developer agrees to commence development on Tracts II and III within 24 months from execution of this agreement and to complete construction of Colorado Avenue within 12 months of recording the final subdivision plat for Tracts II and III. An extension of 12 months or less may be authorized upon written agreement from the Corporate Authorities. It is agreed that no building permits shall be issued for development on Tracts II or III prior to an executed agreement concerning the improvements to Colorado Avenue as stipulated in Article I Section 9 above.

Section 13. Dedication of Improvements and Easements. The Developer agrees to dedicate public improvements, including public streets and rights-of-way, and to provide necessary easements for utilities as a part of the subdivision plat(s) for the Development. However, the proposed stormwater detention basin shall be the responsibility of the future Homeowner's Association for the Development and shall not be dedicated to the City. An acceptable stormwater detention basin operation and maintenance plan and the responsible party to operate and maintain such basin plan shall be reviewed and approved by the City Engineer prior to the release of a Performance Bond. The Owners/Developer understand that all grass/plantings in the right-of-way areas along Prairie Winds Circle and Prairie Winds Drive shall be privately maintained by the Owner/Developer or subsequent Homeowner's Association as stipulated in any subdivision restrictions or covenants.

Section 14. Code Compliance. The Owners/Developers agree to cause 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 Owners agree to submit all building construction plans to the City of Urbana for review. The Owners further agree to correct any deficiencies identified in said plan review.

Section 15. Amendments. The Owners/Developer shall take no action nor omit to take action during the term of this Agreement which act or omission, as applied to the Tracts, would be a breach hereof, without first procuring a written amendment to this Agreement duly executed by both the Owners/Developer and the City. Said action includes petitioning for a county rezoning of said tracts(s) without a written amendment to this Agreement.

It shall not be a breach of this Agreement for the Owner to sell or grant a security interest in the Tract(s) to any third person provided such sale or grant shall be subject to the provisions of this Agreement and provided that the substance of this Annexation

Agreement shall be included in any sales contract for the sale of any portion of the subject tract.

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 tracts 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 Owners, 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 that Tract I as described in Exhibit "A" will be zoned B-3, General Business as provided by the Urbana Zoning Ordinance upon its annexation to the City. The Corporate Authorities further agree that Tract II and Tract III as described in Exhibit "A" will directly convert from Champaign County R-2, Single Family Residence zoning to City R-2, Single-Family Residential zoning. The Corporate Authorities agree that all applicable development regulations existing at the time of annexation will apply to said tracts. 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 Owners requesting said change, the Corporate Authorities reserve the right to amend the Zoning Ordinance text even if such amendment affects the property.

Section 3. Residential Planned Unit Development (PUD). The Corporate Authorities agree to approve a Special Use Permit for a Residential Planned Unit Development (PUD) Plan on Tract II herein described as the PUD Tract in Exhibit "C". The Special Use Permit for the Residential PUD is approved for a Senior Retirement Center as illustrated in this agreement and shall be developed in strict conformance to the attached plans and site data attached as Exhibit "D".

Section 4. Infrastructure Improvements.

- A. **Right-of-Way Dedication.** With assistance from the Developer, The Corporate Authorities agree to coordinate with the adjacent property owner to the east to secure a dedication of right-of-way in order to foster the connection of Colorado Avenue to Stone Creek Boulevard. The dedication and connection of the roadway shall be consistent with the approved preliminary plat for the Stone Creek Subdivision. The Corporate Authorities agree to prepare and record a plat to dedicate this 60-feet of right-of-way.

The Corporate Authorities agree to record a 33-foot right-of-way dedication plat for Colorado Avenue along the existing Renner-Wikoff funeral home lot and Tract I. The purpose of the dedication plat is to ensure adequate right-of-way

necessary for the complete improvement of Colorado Avenue to a collector classified level of roadway in the future.

- B. Infrastructure within the Single-Family Residential Subdivision and Common-lot line Residential Development.** The Corporate Authorities agree to accept all dedicated infrastructure within the Single-Family Residential Subdivision and the Common-lot line Residential Development subject to the requirements of the Urbana Subdivision and Land Development Code.

Section 5. Waivers to the Subdivision and Land Development Code – The Corporate Authorities agree to the following waivers to the Subdivision and Land Development Code.

- 1) to permit a 28-foot wide street width measured from back of curb to back of curb for all public streets within the single-family residential subdivision;
- 2) to allow a 25-foot wide pavement width measured from back of curb to back of curb for the private street within the Common-lot line Residential Development;
- 3) to allow a waiver to construct a five-foot sidewalk on only one-side of the private drive within the Common-lot line Residential Development. The sidewalk shall be constructed along the house side of the street.
- 4) To allow a substandard curve radius of 35 feet along Prairie Winds Drive at the southwest corner of the roadway.

Section 6. Variances to the Urbana Zoning Ordinance. The Corporate Authorities agree to the following variances to the Urbana Zoning Ordinance:

1. To permit a reduction in the required lot area for the condominium development on lots #66, 67, and #68 as shown on Exhibit “E” from the required 4,500 square feet to no less than 3,556 square feet.
2. To permit a reduction of the required front yard setback for the condominium development on lots #59-72 as shown on Exhibit “E” from the required 15 feet to 10 feet.

Section 7. Tax Reimbursement. During the term of this Agreement, the City agrees to pay the Owners an amount equal to the difference between the real estate taxes which would be paid for each of the tracts if they were located outside the City and the amount paid as real estate taxes for each of the tracts when inside the City on an annual basis within sixty (60) days of submission by the Owner to the City Community Development Director of the paid tax bill for each of the tracts and a written computation of such difference. For Tract I, in the year the building permit is issued, said reimbursement shall be prorated based on the number of months during the year before the permit was issued. For example, if the permit is issued anytime during July, then the reimbursement shall be for 7/12 of the annual tax amount (seven months being January thru July).

For Tracts II and III, in the year the final plat is recorded, said reimbursement shall be prorated based on the number of months during the year before the plat was recorded. For example, if the plat is recorded anytime during July, then the reimbursement shall be for 7/12 of the annual tax amount (seven months being January thru July).

Section 8. 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 Owners 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 five-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 Owners, their 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 Owners 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 Owners 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 tracts would be a breach of this Agreement without first procuring a written amendment to this Agreement duly executed by both the Owners and the City.

Section 4. Enforcement -- The Owners 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 declare this Agreement null and void in addition to other remedies available. Upon breach by the Owners, 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 Owners 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 Owners 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 / Developer:

Laurel Lunt Prussing, Mayor

Paul Tatman

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 Descriptions of Tract I, Tract II and Tract III

Exhibit “B”: Map of Tracts to be annexed

Exhibit “C”: Legal Description and map of Tracts approved for Residential Senior Retirement Center Planned Unit Development. (Referred to in the agreement as “PUD Tract”)

Exhibit “D”: Site Plan and Project Data for Residential Planned Unit Development

Exhibit “E”: Site Plan for Common-Lot Line Residential Development and Single-Family Residential Subdivision

Revised 1/2006

Exhibit “A”

Legal Descriptions and map of Tract I, Tract II and Tract III

Tract I:

A part of the Northeast Quarter of Section 21, Township 19 North, Range 9 East of the Third Principal Meridian, more particularly described as follows:

The North One-half of the East One-half of the West 789.90 feet of the North 661.71 feet of the South Half of the Northeast Quarter of Section 21, Township 19 North, Range 9 East of the Third Principal Meridian. Containing approximately 3 acres.

Being the same tract as described in a Warranty Deed, dated April 29, 1992 and recorded in Book 1815 at page 858, as Document Number 92R13184, in the Office of the Recorder of Deeds, Champaign County, Illinois.
PIN# 30-21-21-200-026

Tract II:

The North 661.75 feet of the East 370.04 feet of the West 1159.94 feet of the Southwest Quarter of the Northeast Quarter of Section 21, Township 19 North, Range 9 East of the Third Principal Meridian, situated in Champaign County, Illinois. Containing approximately 5.63 acres.
PIN# 30-21-21-200-034

Tract III:

The North Half of the South Half of the Northeast Quarter of Section 21, Township 19 North, Range 9 East of the Third Principal Meridian, Except all that part that lies West of the East line of the following described tract of land: The North 661.75 feet of the East 370.04 feet of the West 1159.94 feet of the Southwest Quarter of the Northeast Quarter of Section 21, Township 19 North, Range 9 East of the Third Principal Meridian, situated in Champaign County, Illinois. Containing approximately 22.37 acres.
PIN# 30-21-21-200-035

Exhibit “B”

Maps of Tracts to be Annexed

Exhibit “C”

Legal Description and map of Tracts approved for Planned Unit Development ~~and Single-Family Residential Subdivision~~

Legal Description for tract approved for Residential Planned Unit Development

~~The North 661.75 feet of the East 370.04 feet of the West 1159.94 feet of the Southwest Quarter of the Northeast Quarter of Section 21, Township 19 North, Range 9 East of the Third Principal Meridian, situated in Champaign County, Illinois. Containing approximately 5.63 acres.~~

Lot 73 of Prairie Winds of Urbana Subdivision as recorded in document number 2005R08364 at the Office of the Recorder of Deeds Champaign County Illinois

PIN# 30 93-21-21-200-034

Revised 1/2006

Exhibit "D"

Residential Planned Unit Development (PUD)

Site Plan and Project Data

Legal Description of Residential PUD:

The North 661.75 feet of the East 370.04 feet of the West 1159.94 feet of the Southwest Quarter of the Northeast Quarter of Section 21, Township 19 North, Range 9 East of the Third Principal Meridian, situated in Champaign County, Illinois. Containing approximately 5.63 acres.

Lot 73 of Prairie Winds of Urbana Subdivision as recorded in document number 2005R08364 at the Office of the Recorder of Deeds Champaign County Illinois

PIN# 30 93-21-21-200-034

Planned Unit Development Information:

Total Number of Dwelling Units

Senior Retirement Center: Total of 75 92 units.

Proposed lot coverage of buildings and structures, as a percentage of the total area

Senior Retirement Center = ~~49,000~~ 68,000 square feet

Total Square Footage of Residential PUD Site = 245,242 square feet

Total Percentage of lot coverage for structures = approximately ~~20%~~ 28%

Approximate gross and net residential densities.

Total Number of Dwelling Units = ~~75~~ 92

Total Number of Acres = 5.63

Gross Density = ~~13.32~~ 16.34 dwelling units per acre

Approximate Floor Area Ratio and Open Space Ratio

Floor Area Ratio = ~~.20 (49,000 / 245,242)~~ .28 (68,000 / 245,242)

Open Space Ratio = ~~3.14 ((245,242 - 42,500 - 49,000) / 49,000)~~

(approximate)

1.98 ((245,242 - 42,500 - 68,000) / 68,000)

Revised 1/2006

Common Open Space

Exact areas and square footages to be determined upon development. Walking trail and green space at north end of Senior Retirement Center; and passive green space area to southwest of Condominiums and Senior Retirement Center.

Off-Street Parking Provided.

Senior Retirement Center = *62 56 spaces (~~58 regular and 4 handicapped~~)
(includes 3 handicapped)*

Areas and Streets intended to be Public

All open space and parking areas and intended to be private and not publicly maintained.

Screening / Buffering

Site plan indicates fencing to be provided along perimeter or site. Significant greenspace buffer to be used as open space between proposed development and existing Eagle Ridge Subdivision to the south (see annexation agreement).

Illuminated Areas

Lighting to meet codes of City of Urbana including parking lot lighting for the Senior Retirement Center to be directed downwards towards parking lot.

Exhibit “E”

**Site Plan for Common Lot-line Residential Development and
Single-Family Residential Subdivision**

Revised 1/2006