



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

**m e m o r a n d u m**

**TO:** Bruce Walden, Chief Administrative Officer

**FROM:** Elizabeth H. Tyler, AICP, City Planner, Director

**DATE:** May 11, 2006

**SUBJECT:** Plan Case No. 2006-A-02: Annexation agreement for a three-acre tract of property at 2004 S. Philo Road / Grace United Methodist Church Farm Parcel

Plan Case No. 1983-M-06: Request to rezone a three-acre tract of property at 2004 S. Philo Road from Champaign County R-2, Single Family Zoning District to City, R-4, Medium Density Multiple-Family Zoning District upon annexation.

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**Introduction & Background**

Grace United Methodist Church is located at 2004 S. Philo Road, and has property both in the City of Urbana (church building) and in unincorporated Champaign County (agricultural parcel). The church currently uses the unincorporated property for agricultural uses related to the church's mission. The subject property is a three-acre parcel located directly east of the church, and is one of several in the City that is wholly surrounded and less than 60 acres in size. The City has been pursuing "filling in" these gaps in order to provide improved emergency response and to reduce confusion for service providers, such as police, fire, and public works. There will be no fiscal benefit for the City from annexation, as church property is exempt from property taxes.

The property is currently zoned Champaign County R-2, Single-Family Residential, and the annexation agreement stipulates that the property will be rezoned to City R-4, Medium Density Multiple-Family Residential zoning upon annexation. The proposed rezoning was requested by the church trustees in order to have consistent zoning for all of the church's land holdings.

At their April 20, 2006 meeting, the Urbana Plan Commission reviewed the case and voted 6 ayes to 0 nays to forward a recommendation of approval to the City Council. A representative from the church's Board of Trustees was present but elected not to address the Plan Commission.

## **Issues and Discussion**

### ***Annexation Agreement***

The annexation agreement states that the property will be rezoned to City R-4, Medium Density Multiple-Family Residential upon annexation. According to Section IV-5 of the Urbana Zoning Ordinance, the zoning would automatically convert to City R-2 unless there is a valid annexation agreement in place which specifies other zoning, as stated in Table IV-1. The annexation agreement also specifies that the tract may continue to be used for agricultural cropping and related uses.

### ***Proposed Rezoning***

The property is currently zoned County R-2, Single-Family, and upon annexation, the property would be zoned City R-4, Medium Density Multiple-Family Residential. Although the tract is currently used for agricultural cropping, the rezoning would facilitate any future use of the church property. The 2005 Comprehensive Plan identifies the area as “multi-family residential” which is consistent with the proposed rezoning.

## **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 for 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.*

The proposed zoning is consistent with the church property already in the City, and is intended to facilitate future use of the property. The surrounding areas are developed as a mixture of residential and business uses, and the property immediately south of the tract is already zoned R-4. The new Prairie Winds assisted living center is under construction just east of the tract, and the remaining property surrounding the tract is zoned B-3, General Business.

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

A direct conversion from County to City zoning would create an inconsistency in zoning for the church’s land holdings. Church uses are permitted in the R-2 Zoning District only as a special use, which along with a different set of development regulations, could unnecessarily burden the church.

*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.*

The property could develop in a manner inconsistent with the existing zoning district of the church. The proposed rezoning would ensure regulatory consistency with the church property that has already been developed.

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

The proposed rezoning would ensure that the church's properties are developed in a consistent manner. Zoning the property as such would ensure that the appropriate regulations are applied to the property.

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

The property already has access to sewer, water, and other public infrastructure, and is generally suited for development. Any future development would be subject to all the applicable development standards of the Zoning Ordinance.

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.*

The property is currently undeveloped, though the petitioners have chosen to use the property for agricultural purposes.

## **Summary of Findings**

1. The proposed R-4, Medium Density Multiple-Family Residential Zoning District would be consistent with the current land use of the church and surrounding properties.
2. The proposed R-4, Medium Density Multiple-Family Residential Zoning District would be consistent with the future land use designation of the 2005 Urbana Comprehensive Plan.
3. The proposed annexation agreement includes provisions for the continued use of the property for agricultural cropping and related uses.
4. The proposed rezoning would not be detrimental to the public health, safety or general welfare, and would allow regulatory consistency with the church building property.
5. The proposed rezoning appears to generally meet the LaSalle Case criteria.

6. The Urbana Plan Commission voted 6 ayes to 0 nays to forward a recommendation of approval to the City Council.

## **Options**

In Plan Case 2006-A-02 / 1983-M-06, the City Council has the following options:

- a. Approve the Annexation Agreement.
- b. Approve the Annexation Agreement with modifications if agreed to by the Owner/Developer.
- c. Deny the Annexation Agreement.

## **Recommendation**

In Plan Case 2006-A-02 / 1983-M-06 staff concurs with the Plan Commission recommendation to **APPROVE** the proposed annexation agreement as presented.

Prepared By:

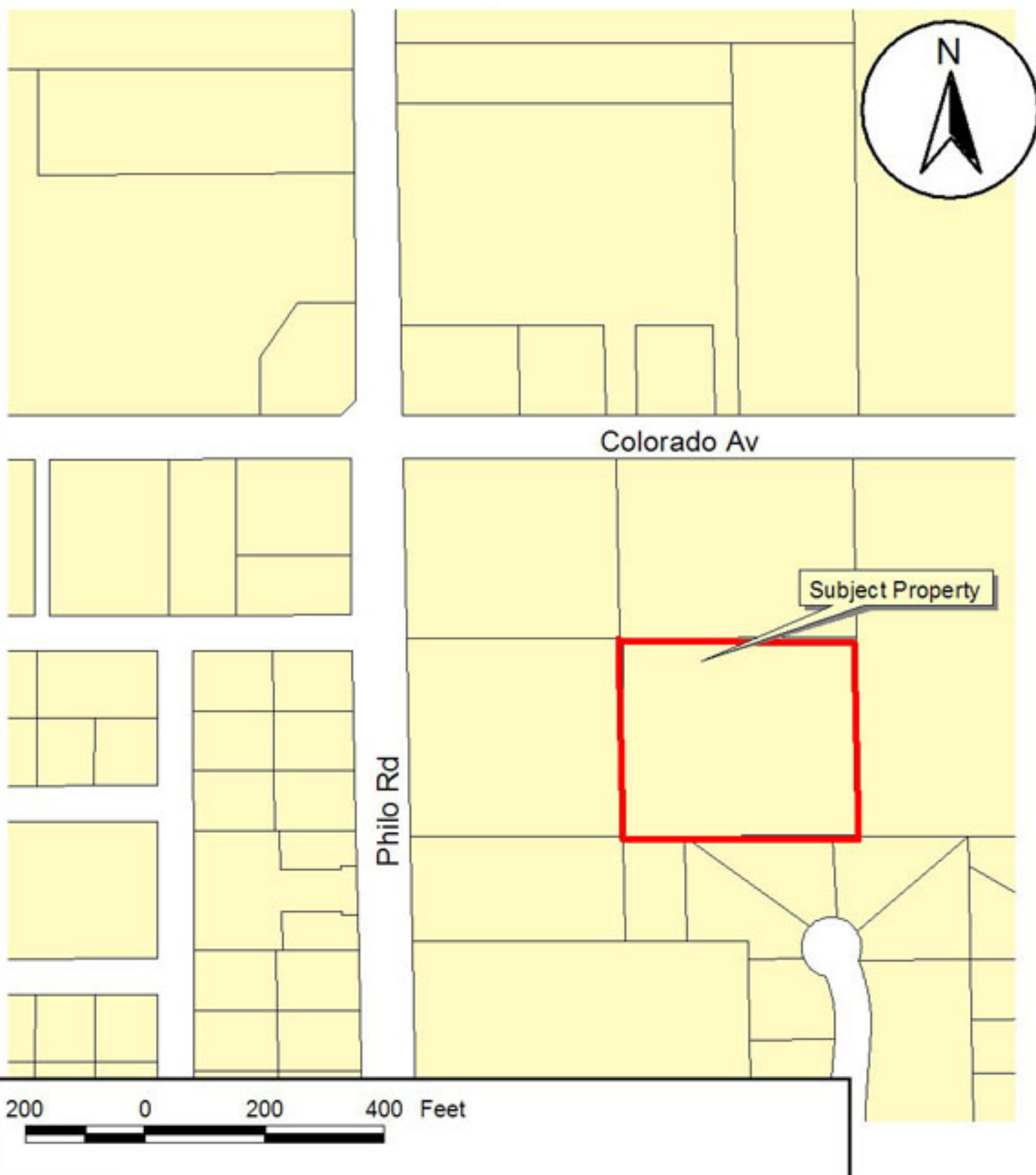
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Matt Wempe, Planner II

cc: Walter Crackel

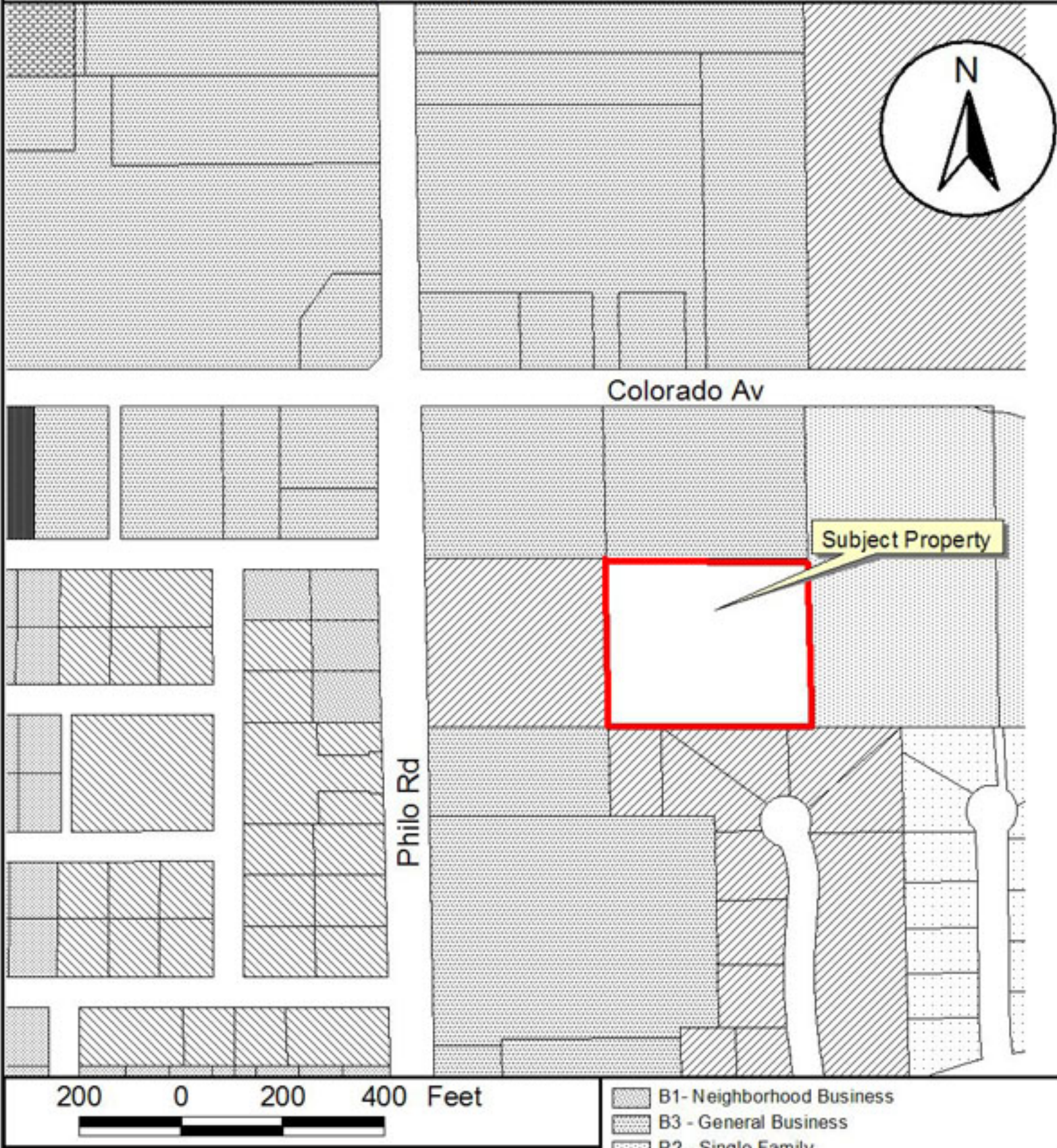
Attachments:     Exhibit A: Location Map  
                         Exhibit B: Zoning Map  
                         Exhibit C: Existing Land Use Map  
                         Exhibit D: Future Land Use Map  
                         Exhibit E: Aerial Map  
                         Exhibit F: Draft Annexation Agreement  
                         Exhibit G: Ordinance

# Exhibit A: Location Map



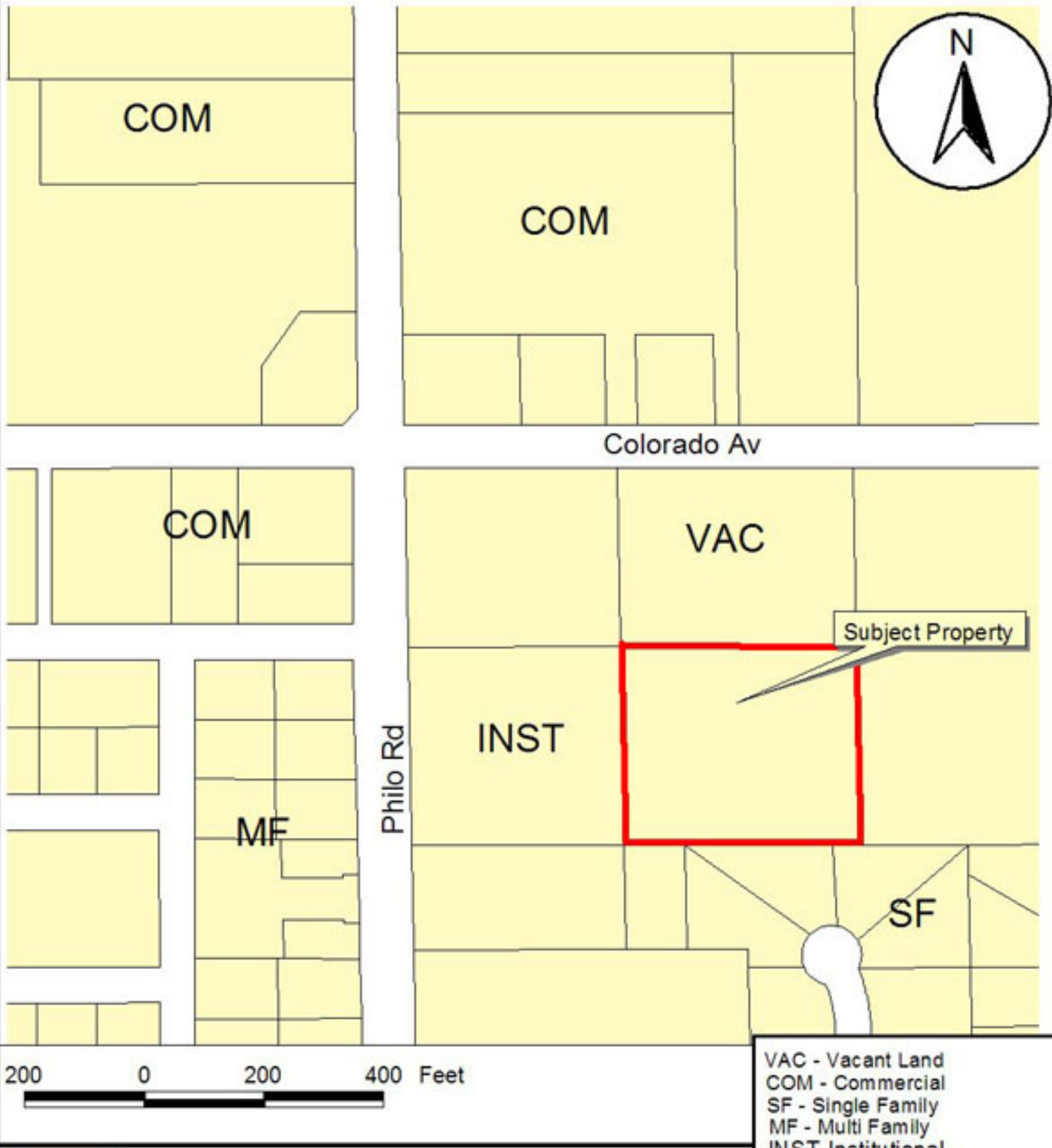
Plan Case: 2006-A-02  
Petitioner: Grace United Methodist Church  
Location: East of Philo Road and South of Colorado Avenue  
Description: An annexation agreement between the City of Urbana and Grace United Methodist Church, including a rezoning to R-4, Medium Density Multiple-Family Residential

# Exhibit B: Zoning Map



**Plan Case:** 2006-A-02  
**Petitioner:** Grace United Methodist Church  
**Location:** East of Philo Road and South of Colorado Avenue  
**Description:** An annexation agreement between the City of Urbana and Grace United Methodist Church, including a rezoning to R-4, Medium Density Multiple-Family Residential

# Exhibit C: Existing Land Use Map

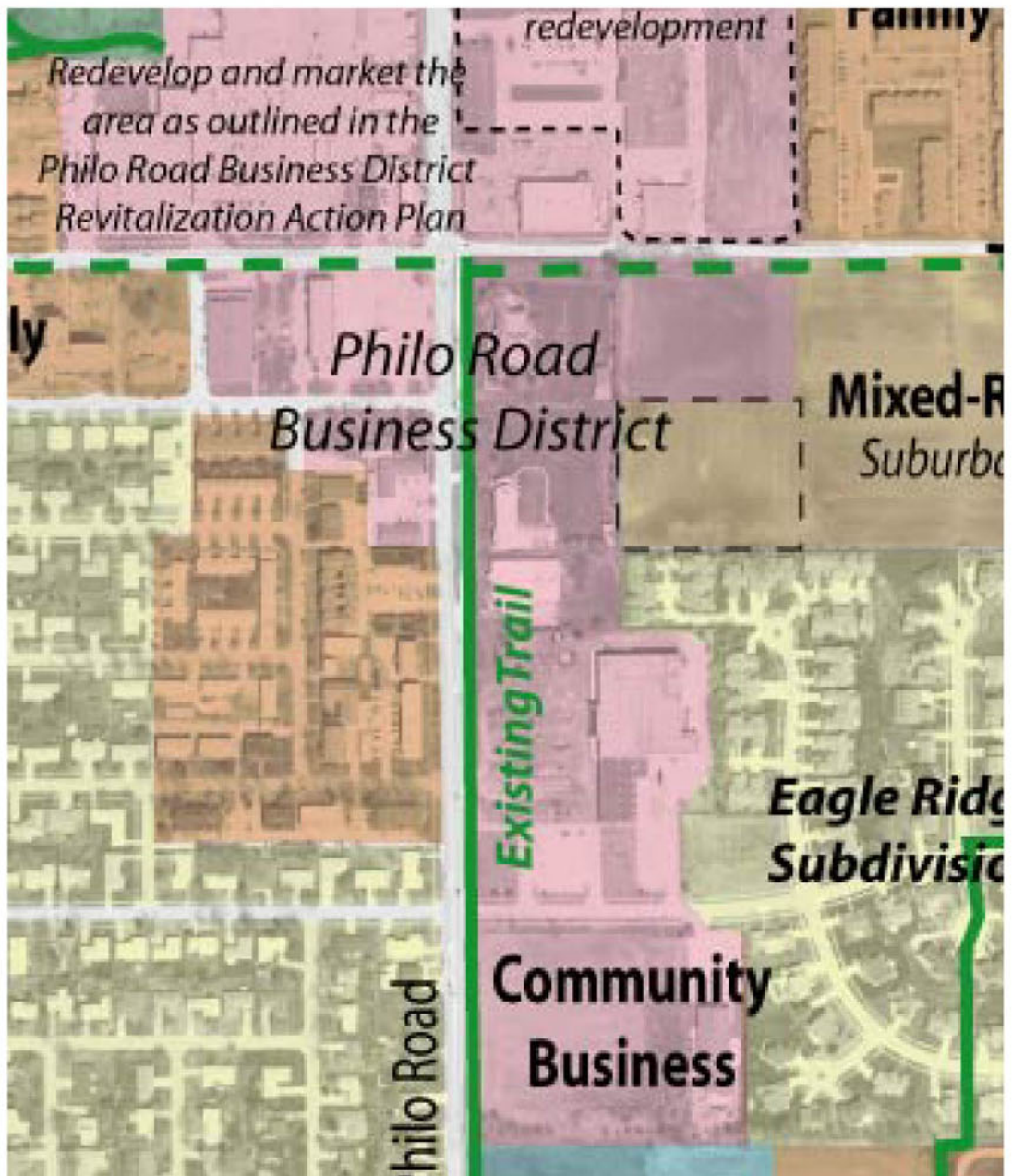


VAC - Vacant Land  
COM - Commercial  
SF - Single Family  
MF - Multi Family  
INST - Institutional  
AG - Agriculture



Plan Case: 2006-A-02  
Petitioner: Grace United Methodist Church  
Location: East of Philo Road and South of Colorado Avenue  
Description: An annexation agreement between the City of Urbana and Grace United Methodist Church, including a rezoning to R-4, Medium Density Multiple-Family Residential

# Exhibit D: Future Land Use Map

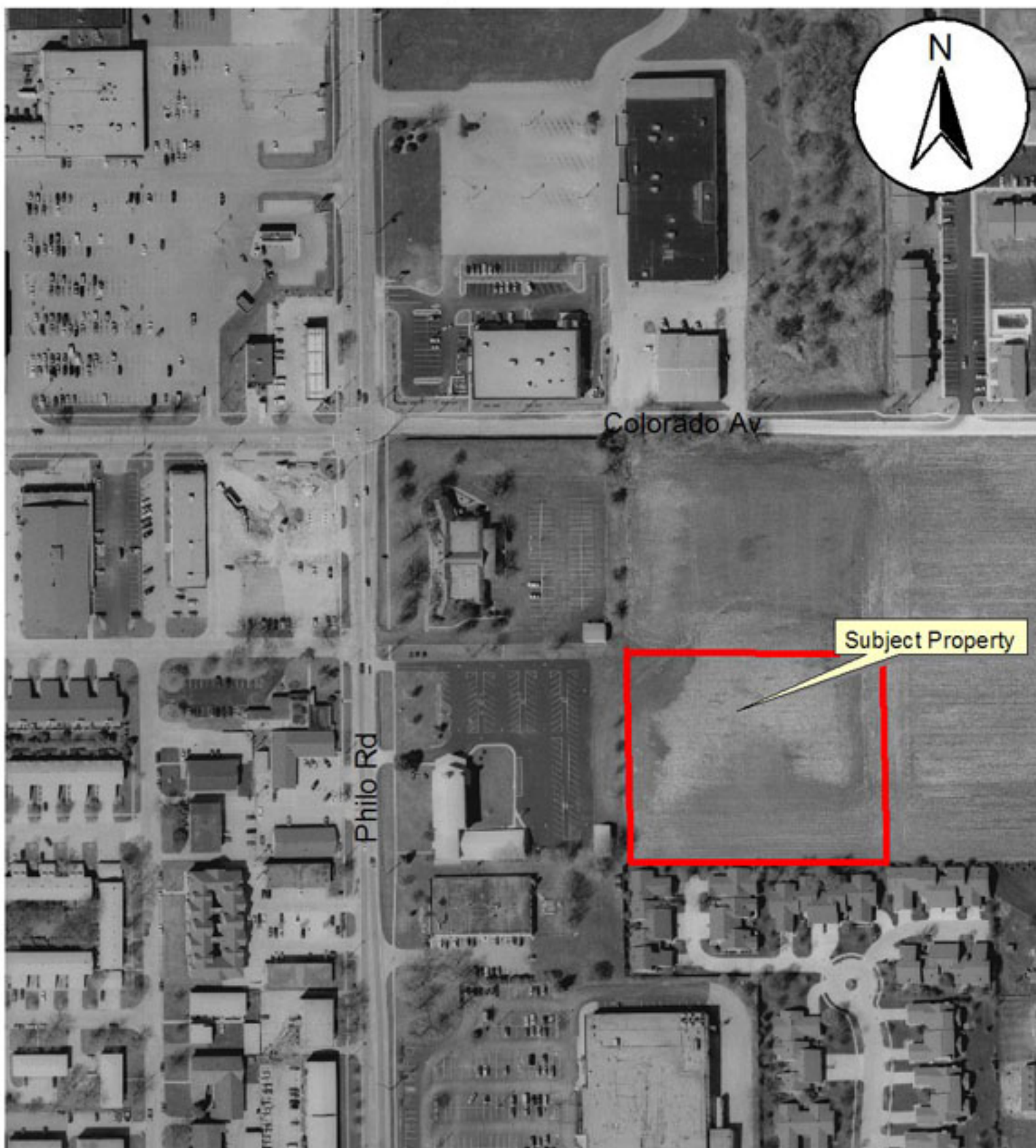


Plan Case: 2006-A-02  
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Prepared 3/31/2006 by Community Development Services - mhw



# Exhibit E: Aerial Map



Plan Case: 2006-A-02  
Petitioner: Grace United Methodist Church  
Location: East of Philo Road and South of Colorado Avenue  
Description: An annexation agreement between the City of Urbana and Grace United Methodist Church, including a rezoning to R-4, Medium Density Multiple-Family Residential

## **Annexation Agreement**

(2004 South Philo Road / Grace United Methodist Church)

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 **Grace United Methodist Church** (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, Grace United Methodist Church is the Owner of record of a certain parcel of real estate located at 2004 South Philo Road, the legal description of which real estate is set forth in Exhibit A attached hereto and referenced herein as "the tract"; and

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

WHEREAS, the tract is wholly surrounded by the City of Urbana, and both the Owner and the City determine that annexation of the tract is in the best interest of all parties; and

WHEREAS, the tract is currently zoned R-2, Single-Family 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 R-4, Medium Density Multiple Family Residential, under the terms and provisions of the Urbana Zoning Ordinance in effect upon the date of annexation, as amended, and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Corporate Authorities find annexation of the tract as described herein as R-4, Medium Density Multiple Family Residential reflects the goals, objectives and policies set forth in the City's 2005 Urbana Comprehensive Plan, as amended from time to time; and

WHEREAS, such annexation and zoning designation will allow the Owner to continue to utilize the tract for farming related to the church's mission and potential future expansion of the church building ; 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 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 R-2, Single-Family Zoning District to City R-4, Medium Density Multiple-Family Residential Zoning District. The Owner agrees that, unless changed upon the initiative of the Owner, the said City zoning classifications for said tract shall remain in effect for the term of this Agreement, subject to the right of the Corporate Authorities to amend the Zoning Ordinance text even if such amendment affects the tract. The Owner agrees to use the tract only in compliance with the Urbana Zoning Ordinance and this agreement as such may be amended from time to time.

**Section 4. Land Uses.** The Owner agrees that the uses of the tract shall be limited to those allowed within the R-4, Medium Density Multiple-Family Residential Zoning District, except that the continued use of the tract for agricultural cropping and related uses shall be permitted.

**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.

## **ARTICLE II. REPRESENTATIONS AND OBLIGATIONS OF THE CORPORATE AUTHORITIES**

The Corporate Authorities agree to the following provisions:

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

**Section 2. Zoning.** The Corporate Authorities agree to annex the tract with a zoning classification of R-4, Medium Density Multiple-Family Residential.

**Section 3. Land Uses.** The Corporate Authorities agree to permit the continued use of the tract for agricultural cropping and related uses.

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

## **ARTICLE III: GENERAL PROVISIONS**

**Section 1. Term of this Agreement.** This Agreement shall be binding upon the parties hereto, and their respective successors and assigns, for a full term of twenty (20) years commencing as of the effective date of this Agreement as provided by the Illinois State Statutes, unless other provisions of this Agreement specifically apply a different term. To the extent permitted thereby, it is agreed that, in the event the annexation of subject tract under the terms and conditions of this Agreement is challenged in any court proceeding, the period of time during which such litigation is pending shall not be included in calculating said twenty-year term. By mutual agreement, the term of this Agreement may be extended.

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

**Section 2. Covenant running with the land.** The terms of this Agreement constitute a covenant running with the land for the life of this Agreement unless specific terms are expressly made binding beyond the life of this Agreement. Furthermore, the terms herein are hereby expressly made binding upon all heirs, grantees, lessees, executors, assigns and successors in interest of the Owner as to all or any part of the 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:**

**Owner:**

\_\_\_\_\_  
Laurel Lunt Prussing  
Mayor

\_\_\_\_\_  
Grace United Methodist Church

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
Phyllis D. Clark  
City Clerk

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **Exhibit A**

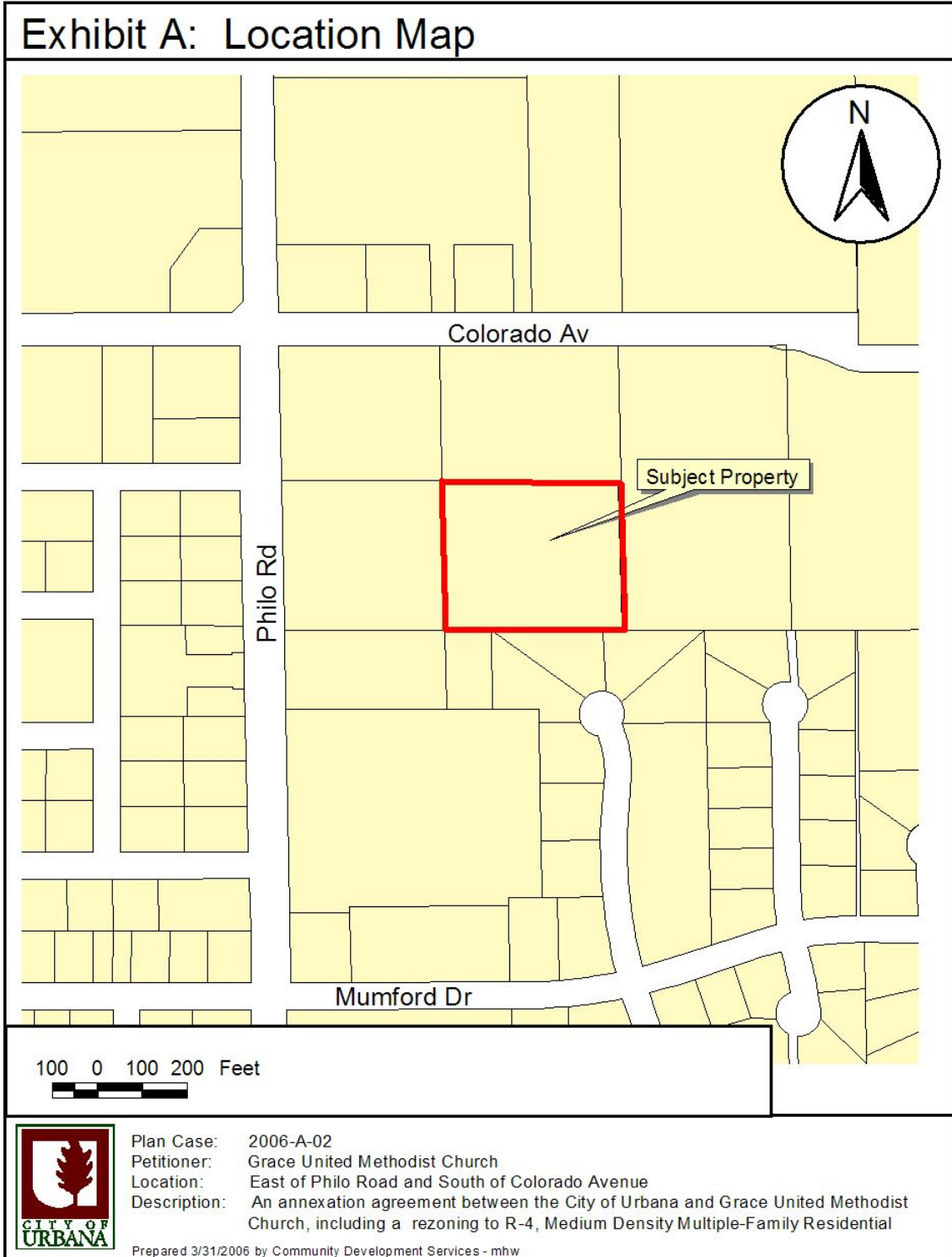
### **Legal Description**

The South three acres of the East six acres of the following tract:

The North 661.75 feet of the West 789.90 feet of the South  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of Section 21, Township 19, Range 9 East of the Third Principal Meridian, in Champaign County, Illinois.

# Exhibit B

## Map of Tract





ORDINANCE NO. 2006-05-059

An Ordinance Approving and Authorizing the Execution of an Annexation Agreement

(2004 S. Philo Road / Grace United Methodist Church)

WHEREAS, an Annexation Agreement between the City of Urbana, Illinois and Grace United Methodist Church 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 three acres located at 2004 S. Philo Road and said tract is legally described as follows:

The South three acres of the East six acres of the following tract:

The North 661.75 feet of the West 789.90 feet of the South ½ of the Northeast ¼ of Section 21, Township 19, Range 9 East of the Third Principal Meridian, in Champaign County, Illinois.

WHEREAS, The City Clerk of Urbana, Illinois, duly published notice on the \_\_\_\_ day of \_\_\_\_\_, 2006 in the News-Gazette, a newspaper of general circulation in the City of Urbana, that a public hearing would be held with the City Council of Urbana on the matter of the proposed Annexation Agreement and the proposed rezoning of the tract; and

WHEREAS, the City of Urbana, Illinois also mailed notice of the public hearing to each of the Trustees of the Carroll Fire Protection District on the matter; and

WHEREAS, on the 15<sup>th</sup> day of May, 2006, the Urbana City Council held a public hearing on the proposed Annexation Agreement; and

WHEREAS, prior to the aforesaid public hearing held by the Urbana City Council, after due and proper notice, a public hearing was held before the Urbana Plan Commission on the 20<sup>th</sup> day of April, 2006, to consider the proposed Annexation Agreement and the rezoning from Champaign County R-2,

Single-Family to the City R-4, Medium Density Multiple Family Residential Zoning District upon annexation in Plan Case No. 2006-A-02 and 1983-M-06; 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. That the Annexation Agreement between the City of Urbana, Illinois and Grace United Methodist Church, 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 \_\_\_\_\_, \_\_\_\_\_.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled "An Ordinance Approving and Authorizing the Execution of an Annexation Agreement (2004 S. Philo Road / Grace United Methodist Church)" which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.