



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Economic Development Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, PhD, Director

DATE: July 10, 2006

SUBJECT: Plan Case No. 2006-A-07: Annexation agreement for an approximately 0.15-acre tract of property at 306 East Thompson Street / Matthew Varble Parcel

Plan Case No. 2004-M-06: Request to rezone an approximately 0.15-acre tract of property at 306 East Thompson Street from Champaign County R-2, Single Family Zoning District to City, R-5, Medium High Density Multiple-Family Zoning District upon annexation.

Introduction & Background

Matthew Varble currently owns a parcel of land located at 306 East Thompson Street in unincorporated Champaign County. The owner has requested that the City negotiate an annexation agreement, which includes the owner petitioning the City to annex the subject parcel. This parcel, approximately $\pm 6,190$ square feet in area, is developed as a multi-family use with one structure comprised of five apartments. The parcels directly to the west and southwest of the subject property are currently within the City of Urbana and have a zoning designation of City R-5 Medium High Density Multiple-Family Residential.

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-5, Medium High Density Multiple-Family Residential zoning upon annexation. The proposed rezoning was requested by the property owner in order to have consistent zoning with the neighboring properties already in the City of Urbana.

Issues and Discussion

Impact to Municipal Services

Concerns have been raised as to the potential impact that bringing this property into the City of Urbana may have on municipal service delivery, particularly the Police Department. An analysis of the Champaign County Sheriff's Office calls for service data shows that the Sheriff's office responded to 10 calls to the subject property in 2005 and has responded to 9 calls so far in 2006.

The property owner asserts that evictions and allowing leases to expire has resulted in “problem tenants” no longer residing at the subject property. However, if there is no significant reduction in calls for police service, the potential call load could be costly and burdensome for the Urbana Police Department, whose resources are already strained addressing issues within the current City limits.

Based on Champaign County Assessor information, the market value of the property is \$79,058 and the equalized value is \$26,350. Based on Urbana’s current tax rate, the City will realize approximately \$350 annually in tax revenues. If there is no significant reduction in calls for police service, the City’s expenses related to the subject property could potentially outweigh the revenues generated by this annexation.

Transfer of Ownership

The owner has indicated that he has requested an annexation agreement and annexation into the City of Urbana to facilitate the sale of the subject property. It appears that the current owner, Mr. Varble, has been a proactive owner and property manager over the last two years. However, the new owners and property management are an unknown quantity. While indications are that the new ownership has agreed to allow Mr. Varble to continue to manage the property, the new ownership will ultimately decide how much to invest in the subject property. It is possible that the condition of the building and police call situation may improve. It is also possible that the building and police call situation may be allowed to deteriorate further.

Mr. Varble has indicated that, in order to meet the proposed timeline for the transfer of ownership, the annexation agreement and annexation need to move forward immediately. It is staff’s opinion that the prudent course of action would be to monitor the management of the subject property and determine whether or not to move forward with an annexation at a future date.

Annexation Priorities

The subject property is not within a targeted area for annexation and has not been identified as an annexation priority. There is no larger, strategic reason for the City to annex this property and, as such, the revenue and expense projections related to this annexation make this a marginal proposition. While a revenue and expense projection should not be the only factor in determining if the City should move forward with an annexation, the potential issues associated with this annexation are enough to cause concern for City staff.

Annexation Agreement

The annexation agreement states that the property will be rezoned to City R-5, Medium High Density Multiple-Family Residential upon annexation. 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.

The annexation agreement also includes a provision that the owner agrees to a property maintenance code inspection. It further states that any immediate health or life safety threats must be brought into compliance immediately, while issues not related to immediate health or life safety threats must be addressed within 30 days.

Adjacent Land Uses and Zoning Designations

The property is surrounded by residential and institutional uses. Immediately north of the property are single-family residences zoned County R-2. To the west is a combination of single and two-family residences zoned City R-5, County R-2, and County R-1. To the south is a combination of single-family residences, a church, and Cunningham Children’s Home zoned City R-5 and County R-2. To the east are single-family residences and Cunningham Children’s Home zoned City R-4 and County R-2.

Zoning and Land Use Table

The following is a summary of surrounding zoning and land uses for the subject site:

Location	Zoning	Existing Land Use	2005 Comprehensive Plan – Future Land Use
Subject Property	County R-2, Single Family Residential	Multi-Family Residential	Residential
North	County R-2, Single Family Residential	Single-Family Residential	Residential
South	City R-5, Medium High Density Multiple Family Residential and County R-2 Single Family Residential	Single-Family Residential and Institutional	Residential and Institutional
East	City R-4, Medium Density Multiple Family Residential and County R-2 Single Family Residential	Single-Family Residential and Institutional	Residential and Institutional
West	City R-5, Medium High Density Multiple Family Residential, County R-2 Single Family Residential, and County R-1 Single Family Residential	Single and Two-Family Residential	Residential

Proposed Rezoning

The property is currently zoned County R-2, Single-Family Residential, and upon annexation, the property would be zoned City R-5, Medium High Density Multiple-Family Residential. Aside from making the zoning designation of the subject property consistent with the surrounding properties already in the City of Urbana, this rezoning will also provide an opportunity to make the existing land use consistent with the zoning regulations of the R-5 district. The 2005 Comprehensive Plan identifies the area as “Residential” which is generally consistent with the proposed rezoning.

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.*

The proposed zoning is consistent with the parcels directly to the west and southwest of the subject parcel already in the City and also consistent with the zoning of the Cunningham Children’s Home property to the south of the properties on the south side of Thompson Street. The surrounding areas are developed as a mixture of single family and duplex residential uses, along with the institutional use of the Cunningham Children’s home, which includes structures used for multi-family residential purposes.

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 subject property. The existing structure would not be permitted in the R-2 Zoning District that a direct conversion from County to City zoning would provide. This rezoning will help maintain and potentially improve property values.

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.*

Without the R-5 zoning designation, the property could redevelop in a manner inconsistent with the existing R-5 zoning designation on the properties already in the City adjacent to the subject

property. The proposed rezoning would ensure regulatory consistency with the subject property and the adjacent properties.

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 subject property is consistent with the adjacent properties within the City of Urbana. 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 subject property is already developed as apartments, which is consistent with the R-5 district. Any future development or redevelopment 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 subject property is currently not vacant, and the owner has made no claims that the current zoning has caused vacancies or underutilization of the property.

Plan Commission Recommendation

At their July 6, 2006 meeting, the Plan Commission voted 7 ayes to 0 nays to forward a recommendation of denial to the City Council. The Plan Commission's concerns were based on the fact that the existing apartment use of the subject property is inconsistent with the single-family and duplex uses of other properties in the neighborhood. The Plan Commission also felt that, while the proposed R-5 zoning might be consistent with adjoining R-5 zoned properties already in the City, the Medium High Density Multiple Family Residential zoning is inconsistent with the existing surrounding land uses and should not be perpetuated. Additionally, several members of the Plan Commission stated that the relatively high level of police calls and the higher costs for municipal services based on these calls were not factors in recommending denial of the annexation.

Some concerns were also raised by neighboring property owners related to this annexation. Mr. Varble has committed to addressing these concerns, including the removal of the beverage vending machine and a willingness to cap the number of units on the subject property to five units.

Summary of Findings

1. Based on current revenue and expense data, including calls for police service to the subject property, the proposed annexation could potentially have a negative impact on the City's tax base and level of municipal services provided elsewhere in the City.
2. The proposed annexation is not within a targeted annexation area, has no larger, strategic significance, and is therefore not a desirable annexation for the City to pursue at this time.
3. The proposed R-5, Medium High Density Multiple-Family Residential Zoning District would be consistent with the current land use of the subject property and surrounding properties within the City of Urbana.
4. The proposed R-5, Medium High Density Multiple-Family Residential Zoning District would be generally consistent with the future land use designation of the 2005 Urbana Comprehensive Plan.
5. The proposed rezoning would not be detrimental to the public health, safety or general welfare, and would allow regulatory consistency with the surrounding area.
6. The proposed rezoning appears to generally meet the LaSalle Case criteria.
7. The Plan Commission voted 7 ayes to 0 nays to forward a recommendation of denial to the City Council.

Options

The City Council has the following options. In Plan Case 2006-A-07 / 2004-M-06, the City Council may:

- a. Approve the proposed annexation agreement, including a zoning designation of R-5, Medium High Density Multiple-Family Residential for the site; or
- b. Approve the proposed annexation agreement, including a zoning designation of R-5, Medium High Density Multiple-Family Residential for the site, subject to changes. (Note that the property owner would have to agree to any recommend changes); or
- c. Deny the proposed annexation agreement.

Fiscal Impact

As has been previously mentioned, based on Champaign County Assessor information, the market value of the property is \$79,058 and the equalized value is \$26,350. Based on Urbana's current tax rate, the City will realize approximately \$350 annually in tax revenues. At this point, it is impossible to predict the future police call load at the subject property, however, if the trend from the last one and a half years is indicative of what is to come, then the cost to provide police service to the property will outweigh the potential tax revenues generated by the annexation.

While it is staff's hope that the subject property will be a safe and productive part of the community, the fact that this property could potentially be a drain on City resources has prompted staff to recommend not moving forward with this annexation agreement and annexation at this time. It would be prudent to allow staff to monitor the property management and police call situation and to entertain an annexation for the subject property at some future date.

Staff Recommendation

In Plan Case 2006-A-07 / 2004-M-06 staff recommends **DENIAL** of the proposed annexation agreement as presented.

Prepared By:

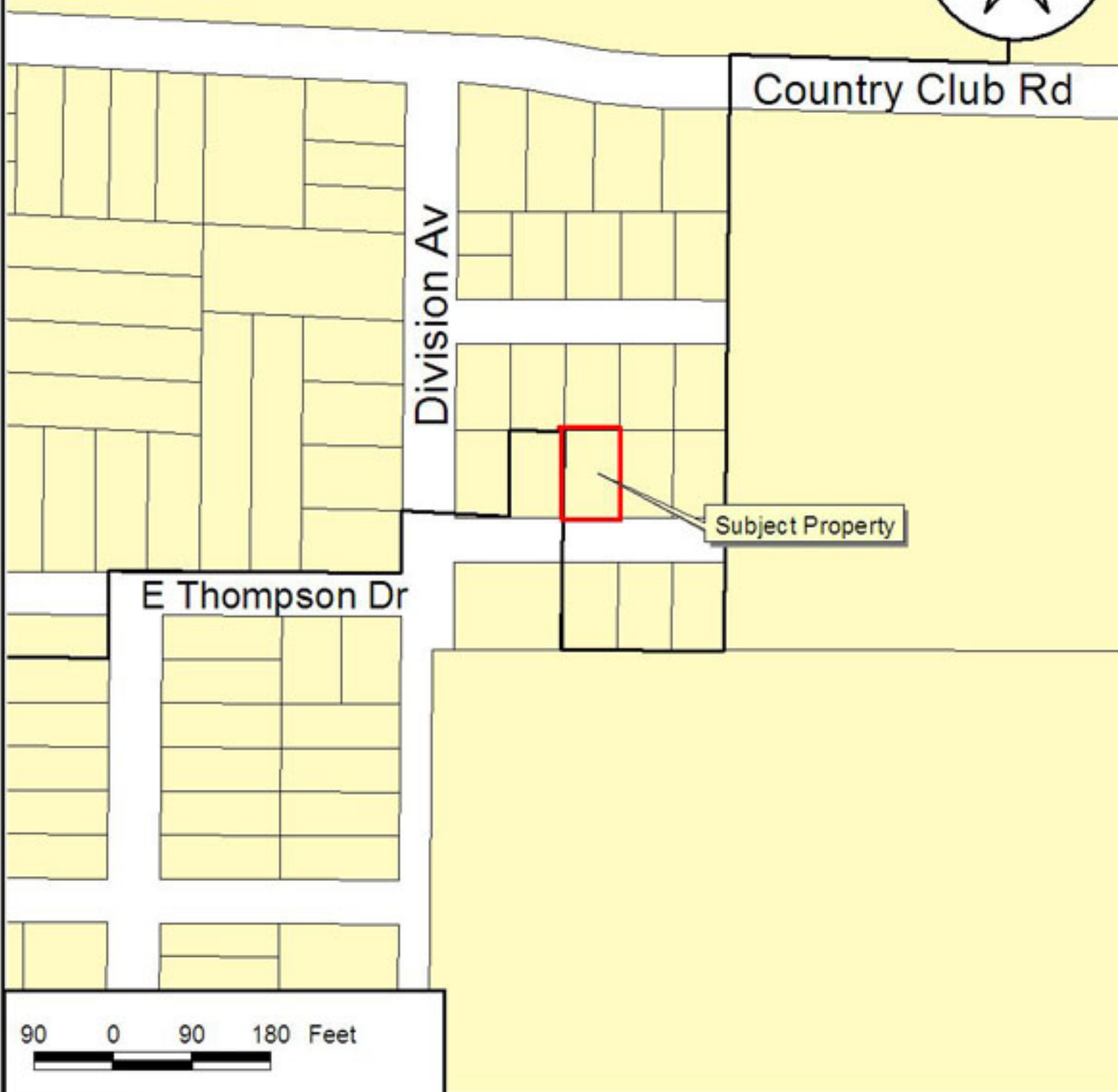
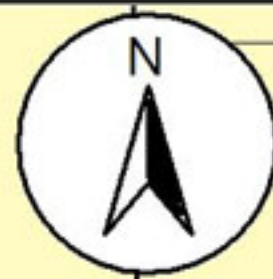
Tom Carrino, Economic Development Manager

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: Annexation Agreement Ordinance

CC: Jeffrey Tock
 Harrington & Tock
 P.O. Box 1550
 Champaign, Illinois 61824-1550

 Matthew Varble
 1708 Nancy Beth Dr.
 Champaign, Illinois 61822-7388

Exhibit A: Location Map



Country Club Rd

Division Av

E Thompson Dr

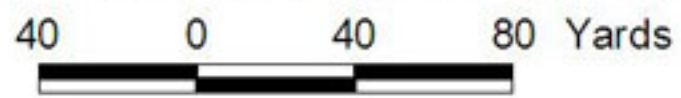
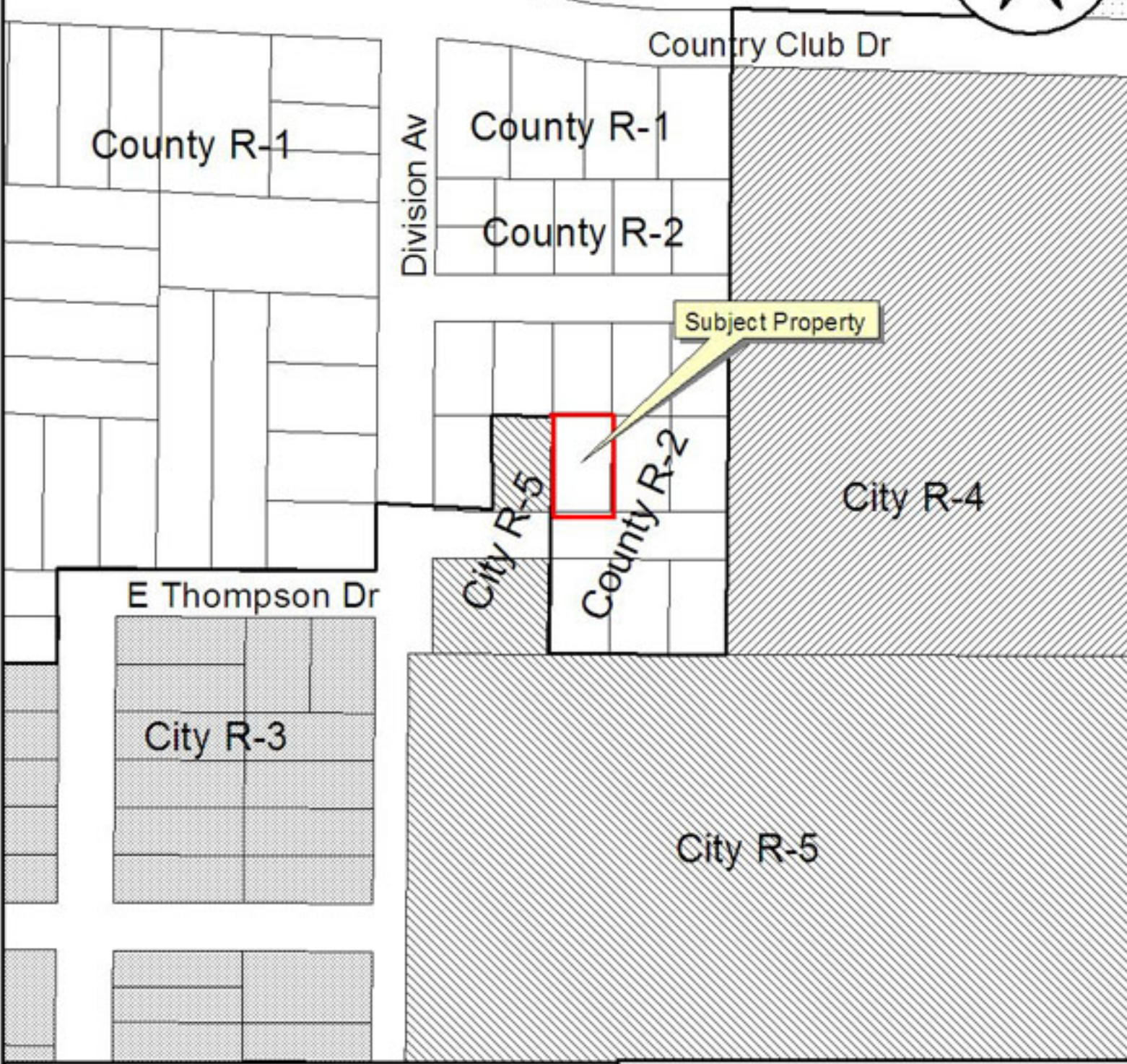
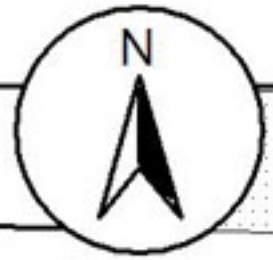
Subject Property

90 0 90 180 Feet



Plan Case: 2006-A-07
Petitioner: Matthew Varble
Location: 306 E. Thompson, 30-21-08-227-011
Description: Annexation Agreement for 306 E. Thompson

Exhibit B: Zoning Map

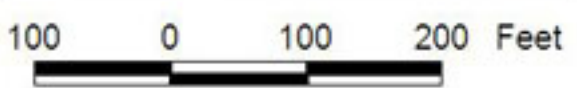
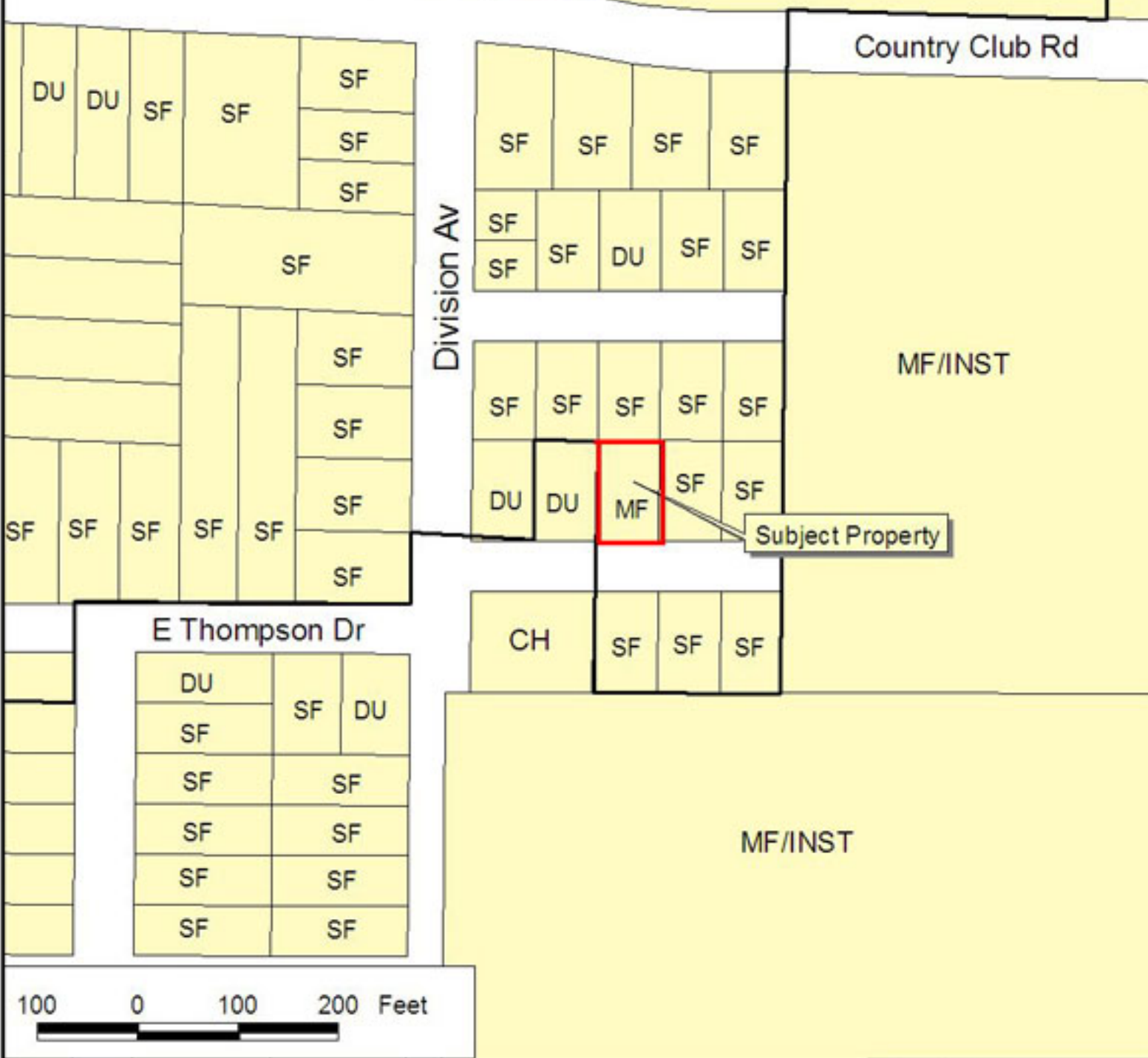


- City R3 - Single- and Two-Family
- City R4 - Medium Density Multiple-Family
- City R5 - Medium High Density Multiple-Family
- County R-1 - Single Family Residence



Plan Case: 2006-A-07
Petitioner: Matthew Varble
Location: 306 E. Thompson, 31-21-18-227-011
Description: Annexation Agreement for 306 E. Thompson

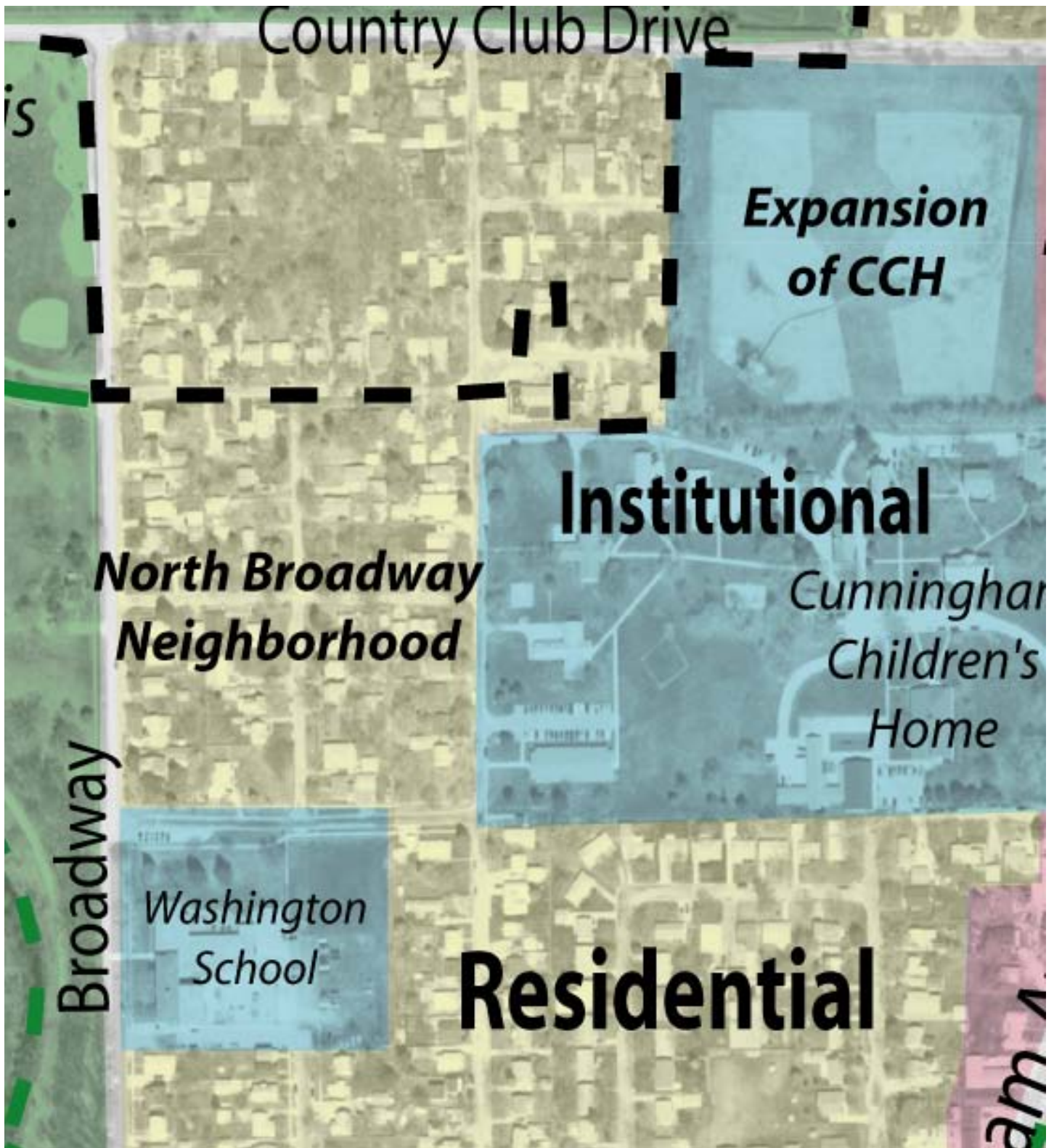
Exhibit C: Existing Land Use Map



Plan Case: 2006-A-07
 Petitioner: Matthew Varble
 Location: 306 E. Thompson, 31-21-08-227-011
 Description: Annexation Agreement for 306 E. Thompson

-  City Boundry
- SF - Single Family
- DU - Duplex
- MF - Multi Family
- CH - Church
- INST- Institutional

Exhibit D: Future Land Use Map



Plan Case: 2006-A-07
Petitioner: Matthew Varble
Location: 306 E. Thompson, 30-21-08-227-011
Description: Annexation Agreement for 306 E. Thompson

Exhibit E: Aerial Map



Plan Case: 2006-A-07
Petitioner: Matthew Varble
Location: 306 E. Thompson, 30-21-08-227-011
Description: Annexation Agreement for 306 E. Thompson

Annexation Agreement

(306 East Thompson Street / Matthew Varble)

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 **Matthew Varble** (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, Matthew Varble is the Owner of record of a certain parcel of real estate located at 306 East Thompson Street, 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 contiguous to the City of Urbana and may be immediately annexed; and

WHEREAS, the tract is currently zoned R-2, Single-Family Residential 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-5, Medium High 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-5, Medium High Density Multiple Family Residential generally reflects the goals, objectives and policies set forth in the City's 2005 Urbana Comprehensive Plan, as amended from time to time; and

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

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

ARTICLE I. REPRESENTATIONS AND OBLIGATIONS OF THE OWNER

The Owner agrees to the following provisions:

Section 1. Ownership and Annexation. The Owner represents that the Owner is the sole record Owner of the property described in Exhibit A and that the Owner shall, within thirty (30) days of the 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 Residential Zoning District to City R-5, Medium High 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-5, Medium High Density Multiple-Family Residential Zoning District.

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. Inspection. As per Urbana’s city-wide systematic property maintenance code compliance inspection program, the Owner agrees to permit a property maintenance code inspection prior to annexation to ensure that the existing site and structure are in conformance with all applicable current City of Urbana codes and regulations including building, zoning and subdivision codes. Any immediate health or life safety threats must be brought into compliance immediately. The City will require verification that all immediate health and life safety threats are brought into compliance prior to processing an annexation for the subject property. Any items found not to be in conformance with the applicable current City of Urbana codes and regulations that are not immediate health or life safety threats will be addressed within 30 days of the date when the subject property is officially annexed into the City of Urbana.

Section 7. 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-5, Medium High Density Multiple-Family Residential.

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:

Owner:

Laurel Lunt Prussing
Mayor

Matthew Varble

Date

Date

ATTEST:

ATTEST:

Phyllis D. Clark
City Clerk

Notary Public

Date

Date

Exhibit A

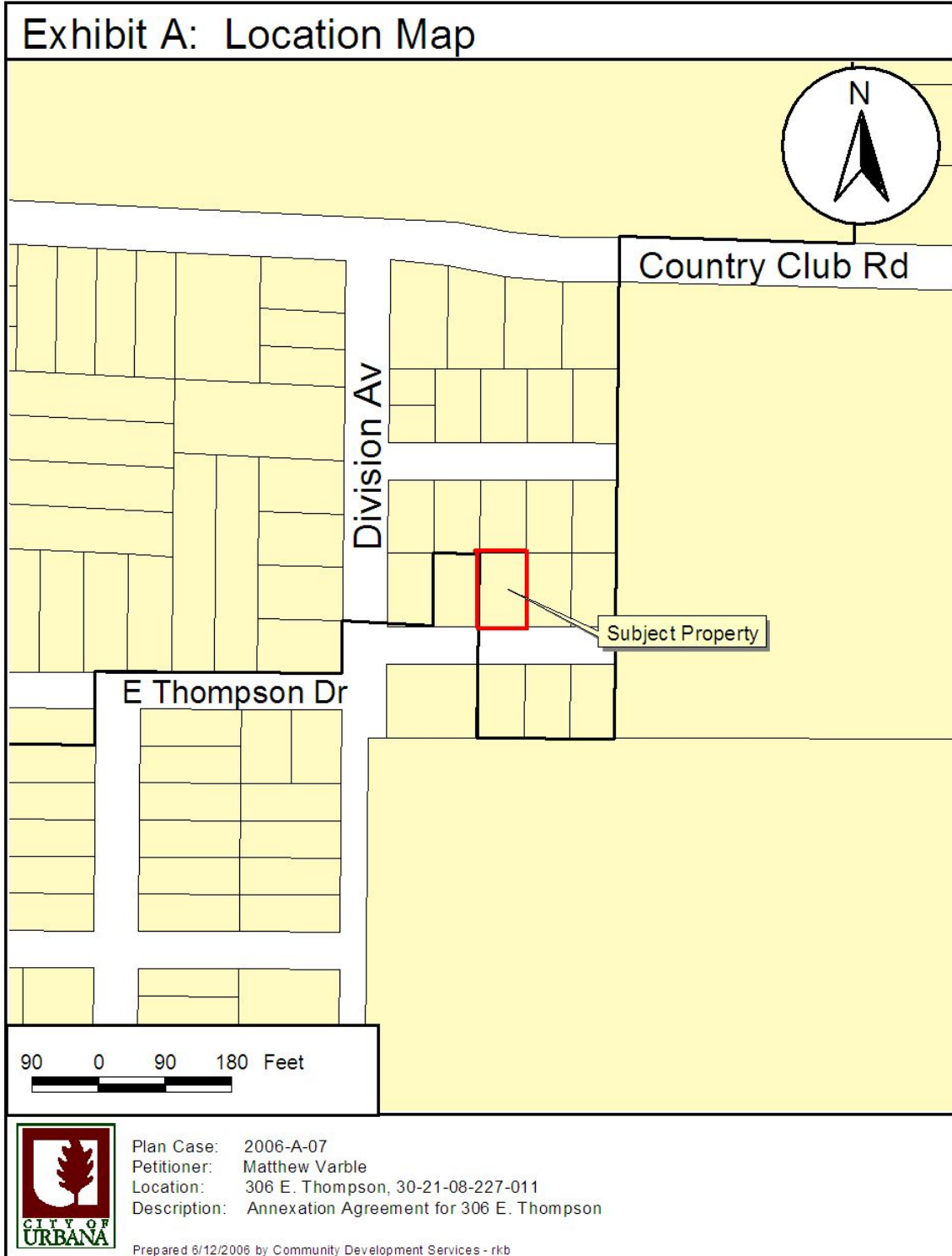
Legal Description

Lot 17 in Country Club Manor Subdivision, as per Plat recorded in Plat Book "F" at Page 309, situated in Champaign County, Illinois.

PIN No.: 30-21-08-227-011

Exhibit B

Map of Tract



ORDINANCE NO. 2006-07-097

An Ordinance Approving and Authorizing the Execution of an Annexation Agreement

(306 East Thompson Street / Matthew Varble)

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

WHEREAS, said agreement governs a tract totaling approximately ±0.15 acres located at 306 East Thompson Street and said tract is legally described as follows:

Lot 17 in Country Club Manor Subdivision, as per Plat recorded in Plat Book "F" at Page 309, situated in Champaign County, Illinois.

PIN No.: 30-21-08-227-011

WHEREAS, The City Clerk of Urbana, Illinois, duly published notice on the 3rd day of July, 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 Eastern Prairie Fire Protection District on the matter; and

WHEREAS, on the 17th 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 6th day of July, 2006, to consider the proposed Annexation Agreement and the rezoning from Champaign County R-2, Single-Family Residential Zoning District to the City R-5, Medium High Density

Multiple Family Residential Zoning District upon annexation in Plan Case No. 2006-A-07 and 2004-M-06; and

WHEREAS, the Urbana City Council has determined that the proposed Annexation Agreement is in general 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 Matthew Varble, 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 (306 East Thompson Street/Matthew Varble)" 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 _____, 2006.

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

DRAFT

DATE: July 6, 2006
TIME: 7:30 P.M.
PLACE: Urbana City Building
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Jane Burris, Ben Grosser, Lew Hopkins, Michael Pollock, Marilyn Upah-Bant, James Ward, Don White

MEMBERS EXCUSED: Bernadine Stake

STAFF PRESENT: Robert Myers, Planning Manager; Matt Wempe, Planner II; Paul Lindahl, Planner I; Tom Carrino, Economic Development Manager; Tony Weck, Community Development Services Secretary; Gale Jamison, Assistant City Engineer

OTHERS PRESENT: Catherine Connor, Kris Dressel, Rick Ford, Kitty Ford, Tom Jordan, Chris Manrique, Vicki Mayes, Joe Petry, Susan Taylor, Jeff Tock, Bill Sheridan, Matt Varble

NEW PUBLIC HEARINGS

Plan Case No. 2006-A-07 – Annexation Agreement between the City of Urbana and Matthew Varble for an approximately 0.15-acre tract of property at 306 East Thompson Street.

Plan Case No. 2004-M-06 – A request by Matthew Varble to rezone an approximately 0.15-acre tract of property at 306 East Thompson Street from Champaign County R-2, Single-Family Zoning District, to City R-5, Medium High Density Multiple-Family Residential Zoning District, upon annexation.

Tom Carrino, Economic Development Manager, presented the staff report for these two cases. He gave a brief introduction and background on the proposed property. He talked about the annexation agreement noting that the agreement includes a rezoning of the proposed property from County R-2 to City R-5, Medium High Density Multiple Family Residential Zoning District. The agreement also includes a property maintenance code inspection provision, which requires that the systematic property maintenance code city-wide be conducted prior to annexation. Included in this provision is that all immediate health and life safety issues be

addressed prior to annexation and all issues not related to immediate health and life safety threats must be addressed within 30 days of annexation.

Mr. Carrino reviewed the criteria for the proposed rezoning by discussing the La Salle National Bank criteria. He described the proposed site and surrounding properties noting their current zoning classification and land use. He talked about the concerns that the City has with annexing of the proposed property, which are the number of police calls to the proposed property in the past and based on the available data there is a strong possibility that the expenses related to annexing the proposed property could far outweigh the revenues related to bringing the proposed property into the City.

As a result, City staff would like to take some time to analyze whether or not the changes made to the property by the owner makes a difference in the number of police calls. Unfortunately, the owner has a tight timeline. He is currently trying to sell the proposed property, and he needs these two cases to move forward to City Council as soon as possible.

He summarized staff findings. He mentioned that the applicant and his representative were present to answer any questions.

Mr. Ward inquired as to how many rental units were on the proposed property. Mr. Carrino said that there were five rental units.

Mr. Ward stated that the rezoning request is for the proposed property to become R-5 upon annexation. There are five rental units on the property. For the materials that the Plan Commission has received, it appeared as though all the surrounding residential properties are all either single-family or duplex. So, the proposed property is out of sync with the neighborhood. Mr. Carrino responded by saying that the properties on the south side, which is the Cunningham Children's Home, are zoned R-5, and to the east of the proposed property, there are some R-4, Medium Density Multiple Family Residential Zoning District, properties. However, most of the surrounding properties are single- and two-family residential.

Mr. Grosser questioned whether City staff had looked into the number of police calls prior to 2005. Mr. Carrino stated that the Urbana Police Department pulled the call data for 2005 and 2006. The Chief of Police when reviewing the proposed annexation and rezoning remembered the address, which is why he pulled the call data for 2005 and 2006. He stated that he does not have data for years prior to 2005.

Mr. Pollock asked if there were other problems historically in the neighborhood or is it the existing structure. Mr. Carrino commented that most of the police calls for 2005 and 2006 so far have been for certain specific tenants. He did not have call data for surrounding properties. Most of the calls for the proposed property are related to tenants in the building.

Chair Pollock opened the public hearing up to gather input from the public audience.

Jeff Tock, attorney for the petitioner, and Matt Varble, petitioner, approached the Plan Commission. Mr. Tock mentioned that Mr. Varble would provide background information and

would address some of the issues raised by City staff. Mr. Tock would help to fill in some additional information based upon the land use and its relation to the Urbana 2005 Comprehensive Plan.

Mr. Varble stated that he handed out information prior to the meeting regarding the proposed property. The information clearly shows the improvements that he has made to the property. He mentioned that there is currently a sale agreement in place for \$198,000 for the proposed property. He purchased the property in 2004 for \$109,000. The tax revenue would substantially increase to the City of Urbana should the sale go through. However, in order for the sale to go through, the property zoning needs to be consistent with the use so the lender to give financing to the proposed buyer. He would continue to manage the proposed property and handle all of its affairs following a successful annexation and sale that takes place.

With respect to the police call issues, Mr. Varble exclaimed that he has proactively addressed this as quickly and as efficiently as possible. Part of the issue is that the police do not contact a landlord when a call has been made to their property nor do the tenants voluntarily tell a landlord that the police were called out. He found this information out over time through a second hand resource. He, then, was able to either not renew leases or conduct evictions as a result of certain tenants' behavior. He takes this seriously, because he has spent a lot of money on making improvements to the proposed property.

Mr. Varble commented that the proposed property would be considered affordable housing under the City of Urbana's criteria. There is not a lot of affordable housing in the area.

The vacancy rate is 0%, and he has never had a problem with renting to qualified tenants. This is partly due to the rental rate and to the improvements he has made to the property.

There are some before and after photos available to look at included in the information that was handed out. He wanted to provide information that is not in the written staff report, so that is why he handed out the information.

Mr. Varble pointed out that the property itself was constructed as an apartment building. It was never a single-family house. It was built in approximately 1956 before any zoning laws came into effect. This is part of the reason why the zoning is R-2 as opposed to County R-4 or City R-5. He asked that the Plan Commission to facilitate the rezoning so that the sale of his property could go through. He could continue to manage the property, and everything would be consistent.

As far as the social concerns, he has done everything that a reasonable person would be expected to do to address these concerns. Part of the reason there are police call issues is that some of the neighbors call the police repeatedly over nuisance issues such as a large tree that he cut down, which fell into a neighbor's yard. One time he had gravel delivered to improve the mud situation in the front yard. The gravel keeps the mud from forming. The police were called because a neighbor was concerned that the gravel truck was too close to the property line and dust off the gravel was causing an asthma attack.

Mr. Tock stated that properties like the one proposed are not consistent with good planning. In this case, there is an apartment building that was built in the 1950s in the middle of what might have been a cornfield or maybe a single-family residential area. Over the last 50 years, other homes get built up around the proposed property, and it becomes a non-conforming use. A loan to purchase the proposed property is impossible to get, because if the building burns down, then the owner could not rebuild an apartment based upon the loan. It is a problem piece of property. Yet it is there, and it is not going away.

The proposed property should be properly zoned either in Champaign County or in the City of Urbana. It is contiguous to the City with a proper zoning of R-5, which is what the property owner (whether it be Mr. Varble or someone else) needs in order to be compliant with the zoning laws and with being able to continue to operate the property as a five-unit apartment building. In addition, it is providing affordable housing.

Trend #2 under Housing (page 27) in the new Comprehensive Plan talks about affordable housing and how *"rents have steadily increased in recent years making the availability of affordable housing scarce"* and how *"affordable rental housing is the principal housing problem for low-income residents in Champaign-Urbana area"*. Goal 15.0 states *"Encourage compact, contiguous and sustainable growth patterns."* Goal 15.4 states *"Annex unincorporated areas that have been previously developed at urban densities."* This is exactly what the Comprehensive Plan is talking about. There is the whole area from the proposed property out to Bradley Avenue that is not inside the City limits, but it is existing housing. Is this area not going to be annexed because the City says it is not profitable? Is everything going to be done on a balance sheet as to whether or not the City could make money with annexing properties?

If the City is going to try to provide some affordable housing, then the tax revenue that is produced from affordable housing properties may be at the lower end of the spectrum. It is not going to be something like at Stone Creek Subdivision.

The analysis of whether there are good tenants is not listed as being one of the La Salle National Bank criteria. The Plan Commission should look at this as an annexation standpoint and decide whether they want to annex the proposed property. Would it be a good choice to annex? Well, as a City, do we want to grow and incorporate affordable housing with all that it entails?

Mr. Tock reiterated that Mr. Varble had evicted the problem tenants. Where do the Plan Commission members think these problem tenants went? If the problem tenants wanted to reside in the Urbana area, then they moved to another apartment unit in the City of Urbana. In which case, the tenants have only moved from one location to another, but they are still residing in Urbana. Therefore, it is a management issue. Mr. Varble has done a good job of trying to move these sorts of management issues out of the proposed property. But they go some place else. It is an urban problem that exists, and that is why there is a police department in the City and a sheriff department in the County.

This is why he asked that the Plan Commission members make their decisions to rezone based upon annexing as to whether it meets the criteria of La Salle National Bank. City staff has said that it does in the written staff report. From a standpoint of whether the City wants to annex the

proposed property, look at the 2005 Comprehensive Plan. It encourages the Plan Commission to grow the City and to annex affordable housing. Therefore, he asked the Plan Commission to recommend approval of the annexation agreement and rezoning cases to the Urbana City Council.

Mr. Ward felt that a beverage vending machine seemed to be a strange thing to have in front of the building if a person is trying to blend into the rest of a single-family neighborhood. He asked if it was still there. Mr. Varble explained that there was a church that was catty-cornered from the proposed property, and their vending machine stopped working and was taken away. After talking to some of the congregation members, he decided to provide a vending machine for them to come by after church to buy some pop. It is not for a revenue producing function. If the Plan Commission felt that it should be taken away, then he could have it done the next day. Mr. Ward commented that he is not suggesting that, he just felt it is sort of strange.

Ms. Upah-Bant said that the information provided states that the proposed property has four apartment units, but the petitioner refers to having five units. Mr. Varble stated that there are five units, and it was incorrectly listed on the MLS form. The fifth unit is on the basement level.

Mr. Grosser inquired whether Mr. Varble had considered petitioning Champaign County to rezone the proposed property. Mr. Varble said yes. However, it seemed like it would take much longer. Mr. Tock added that there were also some concerns on the County level that they try to work with the City of Urbana when a property is contiguous to the City when there is a zoning situation. Any rezoning case that would have been brought in Champaign County could have been objected to by the City if the City did not approve. So, Champaign County felt that the proposed property should be annexed into the City.

Now if the Urbana City Council does not ultimately want to rezone and annex the proposed property, then the owner's next step would be to go back to Champaign County and say that Mr. Varble has made the approach to the City, but that the City does not want to annex and rezone the property. This does not mean that the City would not protest a zoning case in the County, but the County preferred that the owner make the effort to try to annex and get the proposed property zoned properly with the City first.

Mr. Grosser questioned whether the owner had any knowledge of the police call history of the proposed property prior to 2005. Mr. Varble mentioned that prior to his ownership of the property, the prior owner was not really engaged or very active with the property. It is his understanding that there were some issues that went unaddressed until he purchased the property and inherited some of the tenants, which have been evicted as a result of those issues. Of the few times that he had directly interacted with the Sheriff's Department, the police had mentioned that they had been called to the proposed site before his purchasing the property. The police had mentioned that they were much happier with the fact that he had purchased the property and was making improvements.

Mr. Carrino commented that city staff had talked with Mr. Tock, and he had mentioned that Champaign County staff was concerned that the City would offer opposition to a rezoning of the property. He spoke with the City's Chief Administrative Officer, Bruce Walden, and the

Community Development Director, Elizabeth Tyler, and they both felt that there would be no reason at this time why the City would oppose the rezoning in the County.

Mr. Myers pointed out that there are lots of legally non-conforming uses out there and banks make end up making loans all of the time for them. Many times banks only ask for a letter from the City stating that it is a legally non-conforming use. Mr. Myers asked if the petitioner had thought about this approach. Mr. Varble said yes. He had obtained such a letter from Champaign County in February of 2006, but the letter was not viewed as being sufficient by three different lenders for the buyer.

Mr. Varble went on to say that it is amazing that the proposed buyer is still interested in purchasing the property after waiting since January of 2006 when they executed a contract. He is afraid that if they have to go to Champaign County and request a rezoning of the proposed property, then the buyer might become no longer interested in purchasing the property. This would be problematic.

Mr. White asked if there were five bathrooms in the building. Were they put in the building originally? Mr. Varble said that there were five bathrooms in the building at the time that he purchased the building.

Mr. White inquired as to the total square feet inside the apartment building. Mr. Varble stated that there is about 3,000 square feet.

Mr. White asked if all five units have kitchens. Mr. Varble said that all of the units have kitchens.

Chris Manrique, of 308 Thompson Street, lives immediately adjacent to the proposed property. He thanked Mr. Carrino for providing him with some information regarding the proposed two cases.

He went on to say that he had no objection to the annexation of 306 Thompson Street into the City of Urbana. However, he is concerned about the rezoning of the proposed property. The 300 Block of Thompson Street is very short and quiet. It ends in a dead end. There are only seven houses on the street other than the apartment building at 306 Thompson Street. This means that the apartment building accounts for almost half of all the vehicles parked on the street. Parking on the street has been a continuous problem for years.

The previous owner put down gravel immediately adjacent to the street in an attempt to provide parking for his tenants. Mr. Varble has put down gravel in the back of the building in an effort to get some of the parking off the street. Despite this, most of the tenants continue to park on the street. Vehicles are parked perpendicular to the roadway, and the vehicles generally project onto the road past the half-way point, which means others have to drive onto the lawn across the street to get down the street. It is not unusual to find vehicles parked as overflow on the portion of his lawn that is immediately adjacent to the proposed property. He believed that the apartment building is either at or over the limit of the number of vehicles that it could reasonably support.

Therefore, he would like to see as part of the annexation agreement a limitation that the proposed property would not be allowed to have any more than the current five units.

Mr. Manrique commented that there were not any safety concerns with the proposed property prior to Mr. Varble purchasing the property.

Catherine Connor, owner of 304 East Thompson Street, stated that she has owned this property for 27 years. She has come to speak in opposition to the proposed annexation agreement with Mr. Varble for the property located at 306 East Thompson Street.

There are several reasons for her opposing the annexation and rezoning, but the main reason is because the proposed annexation agreement would rezone the proposed property to City R-5. She reminded the Plan Commission that the surrounding neighborhood is chiefly single-family dwellings with a few duplexes or two-flat dwellings. Although many of these residences are in the County and some are in the City, they form a cohesive neighborhood. Therefore, she would view the proposed rezoning as spot zoning in the middle of the low residential area.

She noticed in the written staff report under the Summary of Findings, #3 states that City staff did not find it to be inconsistent with the R-5 zoning around the proposed property. She questioned this because the R-5 around the proposed property consisted of three things: Cunningham Children's Home, which is quite different than apartment building because the Home is for children; a church, and her property.

Her understanding is that the basement of the proposed property is not a legal residence. She had looked at the building years ago.

Ms. Connor talked about the problems that have come up. The Plan Commission has already heard about the police calls. The improvements to the proposed property that Mr. Varble has made have not necessarily been improvements to the neighbors. The gravel covering the entire lot creates a noisy base for vehicles to drive on when they enter the parking area. This has created complaints from her tenants for the first time in the 27 years that she has owned 304 East Thompson Street. Another improvement was an enclosure fence for the garbage cans, which visually hides the fact that there are no lids on the garbage cans. It does nothing to eliminate the smell or the spillage of garbage into her property. The beverage vending machine is a vision that makes the entire neighborhood like a much less desirable place than it did until recently.

She commented that the proposed apartment building as it exists has greatly lowered the value of her property and has even caused recently difficulties in renting. The inside of her duplexes are quite large and exceptionally nice. She has always rented to graduate students and young faculty members, and she has never had any problems until recently. Now, potential tenants first ask about the Coca-Cola machine and wonder if the proposed apartment building is a motel. Then, they ask if there are any problems with next door. Most all of the potential tenants say that they love the unit, but that they are concerned with the neighborhood. She mentioned that she has shown her unit over fifteen times and had several other appointments to show it, but people interested have driven by and later call to cancel the showing. She usually only has to show the duplex unit one or two times to rent it, but it is not surprising when they see a building

surrounded with gravel, a Coca-Cola machine in front, and garbage spilled all over that people no longer view as before, which was as being quiet, peaceful and safe.

Under the proper ownership, the current building in its non-conforming use could be tolerated. However, an R-5 zoning would open it up to who knows what in the future. The uses allowed under an R-5 zoning would not be consistent with the neighborhood. Therefore, she urged the Plan Commission to vote against the proposed annexation agreement so long as it carries the stipulation that the property would be rezoned to R-5.

Mr. Hopkins asked if after just finding out that her property is zoned R-5, would Ms. Connor be interested in talking with City staff about rezoning it to an appropriate classification for a duplex. Ms. Connor stated that it would not bother her at all to have her property down zoned to R-3 or R-4. She stated that she owns other properties in the City and her first concern is the neighbors and the neighborhoods.

With no further comment from the people in the audience, Chair Pollock closed the public input portion of the hearing. He opened the hearing up for Plan Commission discussion and action. Mr. Hopkins moved that the Plan Commission forward Plan Case No. 2006-A-07 and Plan Case No. 2004-M-06 to the Urbana City Council with a recommendation for denial. Mr. White seconded the motion.

Mr. Hopkins stated that although he understands the logic of the annexation argument, which can be used in an annexation case, but could not be used in a zoning case, he thought the arguments about the zoning are really a sticky issue. The proposed property is not an R-5 parcel. The accident of 304 East Thompson Street being zoned R-5 should be resolved as well.

Mr. White stated that he is not concerned about the number of police calls, etc. What does concern him is the rezoning of the proposed property to R-5. When you drive by the proposed property, the existing apartment building seems clearly out of place. To rezone the proposed property to R-5 would be inappropriate.

Mr. Ward agreed as well. He was not taken with the police call issue. We are a community and do what we need to do for the public good. If it makes sense to annex a property, then it is the City's obligation to annex that property, regardless of the number of prior police calls.

He sees the proposed action that the petitioner has requested as being inconsistent with the character of the neighborhood. He could even see it as being a possible impetus for the degradation of the neighborhood in the future.

One question that the Plan Commission did not ask is how many residents lived in the five apartments. Clearly, the number of vehicles and traffic issue would indicate that there is either inadequate parking or inadequate management of parking.

There are too many issues that are poisonous to the neighborhood. Until those issues are resolved, he could not see supporting the proposed annexation agreement or the proposed rezoning. He mentioned that he agreed with Mr. Hopkins and Mr. White in that R-5 seems to be

totally inconsistent with all the criteria whether it is future plan use or the character of the neighborhood or anything else. For all these reasons he would support the motion on the floor.

Ms. Upah-Bant stated that she has a real problem with leaving the proposed property in the County because they have problems with the rezoning classification. She would feel more comfortable with annexing it, zoning it appropriately and leaving the use as a non-conforming use. She found it mind blowing to not annex the property when a property owner is willing to annex his parcel. As a result, she could not support the motion.

Mr. Hopkins exclaimed that what the Plan Commission has before them is a proposed annexation agreement. The annexation agreement includes in it the requirement to zone the proposed property to R-5. He felt this is unacceptable as a long term strategy.

If the strategy was to annex the property in order to improve the situation by providing better services and to zone it consistently with the neighborhood, then the Plan Commission and City Council should do it. But that is not what is before them in the proposed two cases at this moment.

Mr. Pollock asked for clarification from City staff regarding whether or not the rezoning is part of the annexation agreement as well as a separate rezoning case. In other words, could the proposed property be annexed at some point? If it comes into the City under a straight annexation agreement, would it not come under what it is currently zoned in the County, which is not R-5? Mr. Myers stated that there is a direct conversion that would take place. The proposed property is currently zoned County R-2, so it would convert to R-2 upon annexation into the City of Urbana.

Mr. Pollock remarked that the annexation agreement and the rezoning are actually two separate cases. Mr. Carrino explained that an annexation agreement would not be required. The City would only require a petition to annex. The property would be annexed into the City, and the direct conversion would be County R-2 to City R-2 without an annexation agreement required. Therefore, the annexation agreement and the rezoning are an integral part of the annexation agreement.

Mr. Grosser agreed with Ms. Upah-Bant. He felt that City staff wanted to see what would happen in the future with the proposed property. Perhaps over time, the owner could come back and request annexation and rezoning. Where does this leave the proposed property in the future? Does the owner petition again for annexation with an R-3 zoning? Does the owner just never petition again? He believed that an R-3 zoning would make sense for the proposed property. Is that a change that the Plan Commission could suggest? Mr. Pollock stated that the Plan Commission is not going to recommend a rezoning to R-3, because it is not the case before them.

Mr. Grosser stated that annexing of the property would fine for the City. It is contiguous to the City.

Mr. Ward understood that the proposed annexation agreement and the proposed rezoning to be inseparable. The Plan Commission either approves the annexation agreement with the rezoning to R-5 or they reject the annexation agreement with the rezoning to R-5. An annexation

agreement with some other zoning designation is not possible given the fact that R-5 zoning is mentioned in the agreement. If the Plan Commission would attempt to change the zoning, then the agreement would no longer exist. This could come back to the Plan Commission in the future with other options.

Mr. Carrino mentioned that the property owner could file a petition for annexing, which would be heard by the Committee of the Whole and by City Council. Without the agreement, there would be a direct conversion from County R-2 to City R-2. However, there is still plenty of time for the property owner to do so prior to the closing date if he so chooses.

Mr. Pollock commented that this is a difficult case because there is an area that is zoned R-5, and the usage does not match the zoning. In this particular type of case, he mentioned that he tends to fall on the side of the residents that testify. He stated that although he is not totally comfortable with it, he plans to support the motion. He feels that it is the only alternative at this point.

Roll call was as follows:

Ms. Burris	-	Yes	Mr. Grosser	-	Yes
Mr. Hopkins	-	Yes	Mr. Pollock	-	Yes
Ms. Upah-Bant	-	Yes	Mr. Ward	-	Yes
Mr. White	-	Yes			

The motion was passed by unanimous voice vote. Mr. Carrino mentioned that these two cases would be presented along with the Plan Commission's recommendation on July 17, 2006.