**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:** July 13, 2006

**SUBJECT:** Plan Case No. 2005-A-10: Annexation agreement for an approximately 1.80-acre tract of property at 1714 E. Airport Road / Gregory Reynolds and Denise Reidy

Plan Case No. 1903-M-04: Request to rezone an approximately 1.80-acre tract of property at 1714 E. Airport Road from Champaign County AG-2, Agriculture Zoning District to City, R-2, Single-Family Residential Zoning District upon annexation.

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## Introduction & Background

The petitioners, Greg Reynolds and Denise Reidy, are the owners of the property at 1714 E. Airport Road which is partially in unincorporated Champaign County. The property is developed as a single-family residence. The proposed annexation agreement is the result of the petitioners' home being constructed on two individual lots, one of which is in the County, and the other in the City. The petitioners have agreed to work with the City to bring the property into compliance which will include obtaining a Major Variance and a Zoning Map Amendment for the portion of the property in the City. A brief history of the case is provided below:

*1991 - GKC Theaters Annexation Agreement*: The old drive-in movie theater property was annexed into the City and zoned IN, Industrial. The property is adjacent to 1714 E. Airport Road.

*1994 - Matthews Annexation Agreement*: An annexation agreement for 1714 E. Airport Road was approved by the Urbana City Council (Ord. No. 9495-09), which stipulated that the current or future property owner would annex into the City of Urbana once the property became contiguous (the property was contiguous at the time the agreement was approved). The agreement also contained a condition that the City would not annex the property until it could be adequately served by all public services. At the time, staff determined that fire protection could not be adequately provided to the property, thus it was not immediately annexed.

*1999 – Accessory Structure Constructed*: The previous owner applied for and received a County building permit for an approximately 3,500 square foot accessory structure. The accessory structure was constructed in both Champaign County and the City of Urbana but did not have a City permit.

*2001 – Petitioners Purchase Property*: The petitioners purchased the property from James Matthews though were unaware of the previous annexation agreement.

*Spring 2003 - Petitioners Expand Home*: The petitioners conducted preliminary engineering work to expand their home and discovered that the existing home and accessory structure encroached 65 feet into the eastern neighboring property (the GKC property). The petitioners contacted the adjacent owner and both parties agreed to a purchase of land to mitigate the encroachment.

*Fall 2003 – Petitioners Construct New Home*: The petitioners purchased a manufactured home for the property to replace the existing home. The home is placed in approximately the same location as the existing structure, and the accessory structure remains in the same place.

The property issues came to the attention of the Urbana Building Safety Division, which issued a stop work order on the property although the home was already installed. A number of problems were cited, including the need to replat the property, inconsistent zoning, need for an accessory structure variance, and lack of County or City building permits. Staff has been working on this case with the petitioners' attorney for over a year and is now bringing this case forward for approval.

The property is currently zoned Champaign County AG-2, Agriculture, and the annexation agreement stipulates that the property will be rezoned to City R-2, Single-Family Residential zoning upon annexation. The property is currently surrounded by a mixture of industrial (north of Airport Road) and residential (south of Airport Road) land uses. The 2005 Urbana Comprehensive Plan indicates the future land use for the area as Residential, with Regional Business along US Route 45.

At their July 6, 2006 meeting, the Plan Commission voted 7 ayes to 0 nays to forward the case to City Council with a recommendation of approval of the annexation agreement, but with a recommendation for denial of the request for a Major Variance for the accessory structure. The Plan Commission did not specify in its motion the reasons for recommending denial of the Major Variance.

## Issues and Discussion

**Annexation Agreement**

The proposed annexation agreement only pertains to the portion of the petitioners' property that is located outside of the City (see Exhibit A). Separate cases for the rezoning and accessory

structure variance will be brought forward for the portion of the petitioners' property located inside the City. The agreement contains several provisions regarding the subject property:

- *Zoning*: The property will be rezoned from County AG-2, Agriculture to City R-2, Single-Family Residential upon annexation. This designation is consistent with the 2005 Urbana Comprehensive Plan which denotes the future land use for this area as Residential.
- *Adjacent Territory Rezoning*: Within 90 days of the approval of the proposed annexation agreement, the petitioners will be required to submit an application to rezone the portion of their property currently zoned City IN, Industrial to City R-2, Single-Family Residential. This will ensure consistency with the zoning recommended by the proposed annexation agreement.
- *Accessory Structure Variance*: A 3,500 square foot accessory garage, which was constructed by a previous owner, is located immediately north of the house. Section V-2 of the Urbana Zoning Ordinance states that homes larger than 1,500 square feet may have an accessory structure up to 50 percent of the home's floor area, or 1,000 square feet, whichever is less. The petitioners' garage is used for personal and recreational vehicle storage, as well as personal workspace. The proposed annexation agreement will grant a variance for the portion of the accessory structure outside of the City. A separate request for a Major Variance will be submitted for the portion located inside the City.
- *Minor Subdivision Plat*: The petitioners will be required to replat the separate parcel in the County with the portion of land they own in the City. The plat must be consistent with the Urbana Subdivision and Land Development Code.

**Rezoning 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 property is currently surrounded by a mixture of industrial (north of Airport Road) and residential (south of Airport Road) land uses. The industrial parcel immediately east of the property is undeveloped, and the 2005 Urbana Comprehensive Plan indicates a future land use for the area of "Residential", with "Regional Business" along US Route 45.

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

The property is already developed in a manner consistent with the proposed zoning, so there would be minimal impact on property values. County AG-2, Agriculture severely restricts residential uses and could negatively impact property value based on the current land use.

*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 area has already developed in a manner inconsistent with the existing zoning district. The intent of the proposed zoning district is to ensure that the property is maintained by a standard that reflects the existing land use.

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

The property is located in an area that consists of single-family residences. Further, the 2005 Urbana Comprehensive Plan designates the future land use of this area as Residential. The proposed zoning would ensure that the appropriate regulations are applied to the property.

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

The property is already developed in an "urban" manner, as are surrounding properties, which is consistent with the proposed zoning district. The proposed annexation agreement includes provisions that will ensure any future development will meet all the applicable development standards of the Urbana 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 not currently vacant.

**Variance Criteria**

An accessory structure of approximately 3,500 square feet is currently located behind the principal structure and used for personal and recreational vehicle storage, as well as personal workspace. The petitioners have requested a variance to preserve their right to rebuild the structure if it ever needs to be replaced. Section V-2 of the Urbana Zoning Ordinance states that homes larger than 1,500 square feet may have an accessory structure up to 50 percent of the home's floor area, or 1,000 square feet, whichever is less. Per Section XI-2 of the Zoning Ordinance, the following criteria are used to evaluate variances.

*1. Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

The property and the accessory structure were originally developed under Champaign County zoning regulations. A permit was issued for the accessory structure in 1999 to the previous owner of the property. At this time, the adjacent GKC property had already been annexed, and the accessory structure was constructed in both the City and the County.

Typically, nonconformities created through annexation are considered legal nonconformities, which cannot be rebuilt if destroyed. In this case, the petitioners wish to preserve their right to reconstruct the accessory structure should it ever need to be replaced. The variance would not permit the accessory structure, if rebuilt, to be expanded without an additional variance.

*2. The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

The accessory structure was constructed and approved in Champaign County prior to the petitioners purchasing the property. The petitioners wish to preserve their right to reconstruct the accessory structure if it is ever destroyed.

*3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The accessory structure was constructed prior to the petitioners purchasing the property. The petitioner is aware of the requirements of the Zoning Ordinance and has asked for the variance as part of the Annexation Agreement to ensure the accessory structure will be legally conforming.

*4. The variance will not alter the essential character of the neighborhood.*

The property and surrounding area have been developed under Champaign County zoning regulations. The accessory structure is located entirely behind the principal structure, and is approximately 40 feet from the eastern property line.

*5. The variance will not cause a nuisance to the adjacent property.*

The western adjacent property is developed as self-storage warehouses, and is significantly separated from the petitioners' property (see Exhibit E). The eastern adjacent property is undeveloped agricultural land.

*6. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The accessory structure has already been constructed.

*7. The variance requested is the result of practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land.*

The property was developed under Champaign County zoning regulations. The petitioners wish to preserve their right to reconstruct the accessory structure if it is ever destroyed.

## Summary of Findings

1. The property is currently located in both unincorporated Champaign County and the City of Urbana. The property is zoned AG-2, Agriculture in the County and IN, Industrial in the City.

2. The property is subject to a previous annexation agreement for the portion of the property in Champaign County. The previous agreement did not contain any conditions except that the property would be annexed when it could be adequately served by City public services.

3. The proposed annexation agreement requires the petitioners' to submit an application for a Zoning Map Amendment to R-2, Single-Family Residential for the portion of the property currently in the City.

4. The proposed annexation agreement stipulates that the portion of the property currently located in unincorporated Champaign County will be rezoned from County AG-2, Agriculture to City R-2, Single-Family Residential.

5. The proposed R-2, Single-Family Residential Zoning District would be consistent with the current land use of the property and surrounding area.

6. The proposed R-2, Single-Family Residential Zoning District would be consistent with the future land use designation of the 2005 Urbana Comprehensive Plan.

7. The proposed rezoning would not be detrimental to the public health, safety or general welfare.

8. The proposed rezoning appears to generally meet the LaSalle Case criteria.

9. The proposed annexation agreement grants a Major Variance for the portion of the 1,680 square foot accessory structure currently located in unincorporated Champaign County. The petitioners have requested the variance because they wish to retain the right to rebuild the accessory structure should it ever be destroyed.

10. The proposed annexation agreement requires that the petitioners submit an application for a Major Variance for the portion of the accessory structure currently in the City. The proposed annexation agreement is contingent upon granting the Major Variance.

11. The proposed annexation agreement requires the petitioners to prepare and record a Minor Subdivision Plat to combine the parcel in the County with the portion of land they own in the City. The plat must comply with the Urbana Subdivision and Land Development Code.

## Options

In Plan Case 2005-A-10/1903-M-04, the City Council may:

a. Forward this case to the City Council with a recommendation for approval of the proposed annexation agreement, including a zoning designation of R-2, Single-Family Residential for the site; or

b. Forward this case to the City Council with a recommendation for approval of the proposed annexation agreement, including a zoning designation of R-2, Single-Family Residential for the site, subject to recommended changes. (Note that the property owner would have to agree to any recommend changes); or

c. Forward this case to the City Council with a recommendation for denial of the proposed annexation agreement.

## Recommendation

In Plan Case 2005-A-10/1903-M-04, the Plan Commission recommends that the City Council **APPROVE** the proposed annexation agreement, but **DENY** the request for a Major Variance for the accessory structure.

Staff recommends that the City Council **APPROVE** the proposed annexation agreement as presented.

Prepared By:

_____

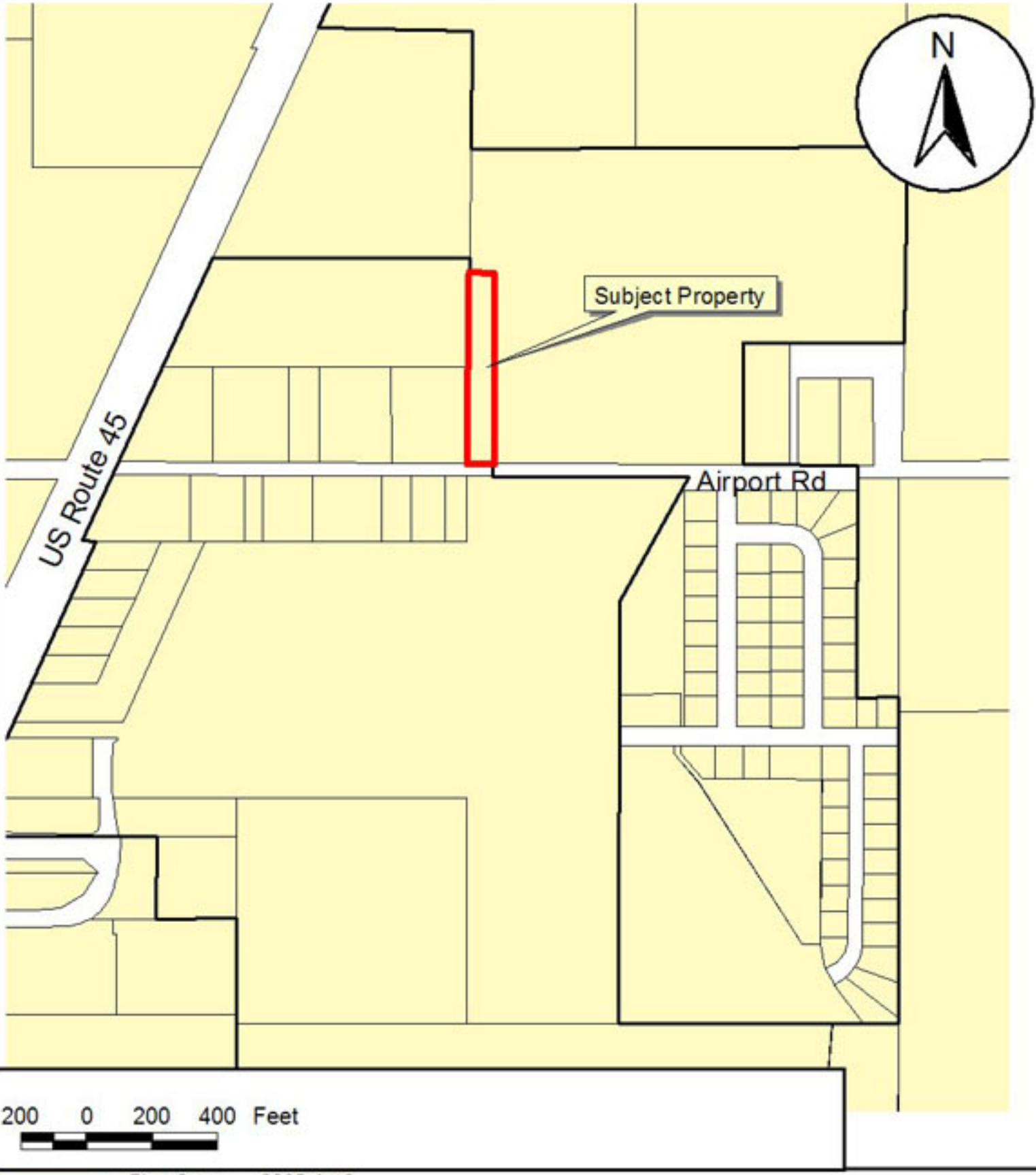
Matt Wempe, Planner II

cc: Jeff Wampler
Erwin, Martinkus & Cole
P.O. Box 1098
Champaign, IL 61824-1098

Greg Reynolds
1714 E. Airport Road
Urbana, IL 61802

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: Site Requirements Map
Exhibit H: Draft Ordinance

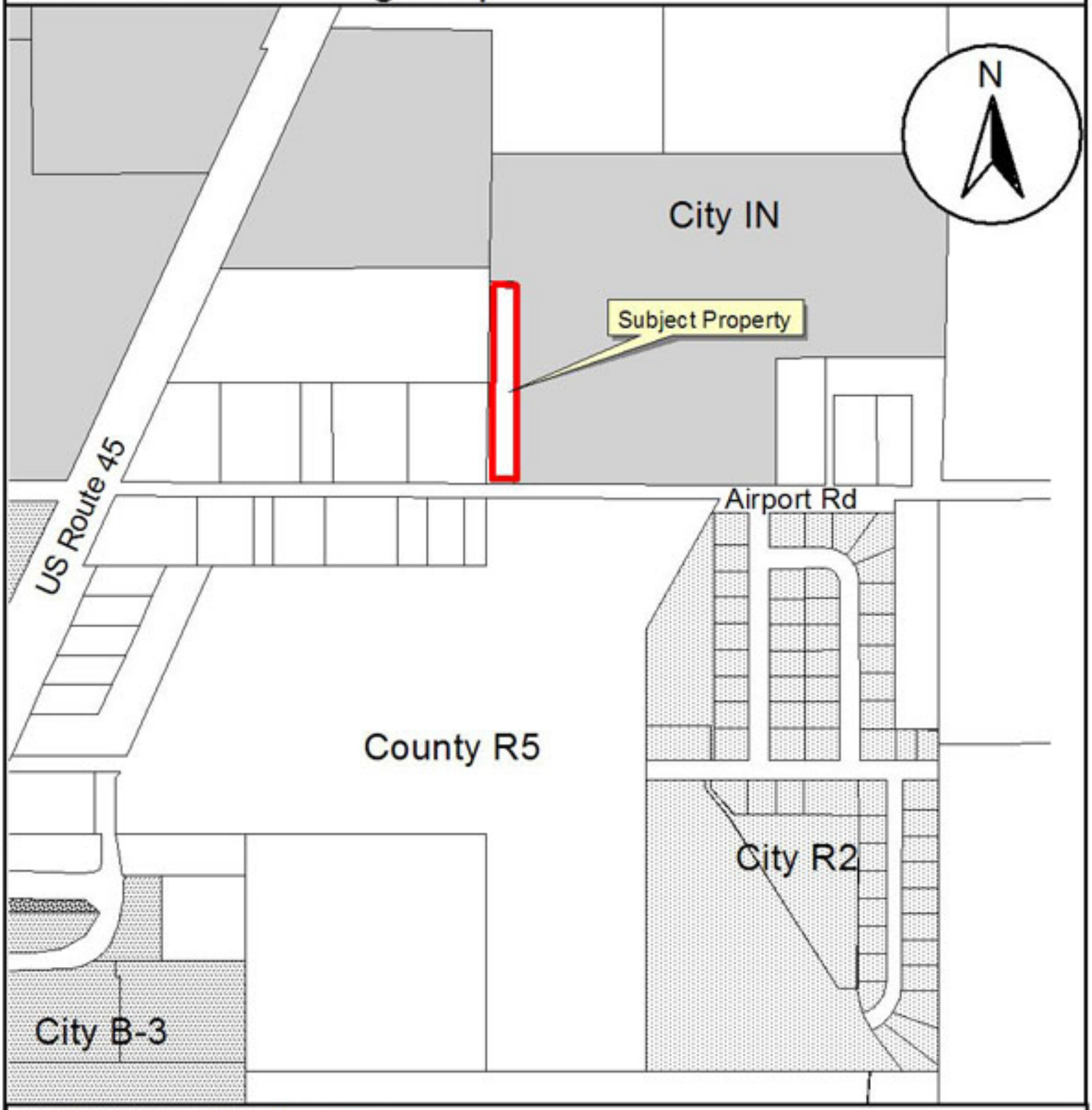
# Exhibit A: Location Map




Plan Case: 2005-A-10
Petitioner: Greg Reynolds and Denise Reidy
Location: North of Airport, East of US Route 45
Description: An annexation agreement between the City of Urbana and Greg Reynolds and Denise Reidy, including a rezoning to R-2, Single-Family Residential

Prepared 06/26/2006 by Community Development Services - mhw

# Exhibit B: Zoning Map




County R5 - Mobile Home Park
IN - Industrial
B3 - General Business
R2 - Single Family

Plan Case: 2005-A-10
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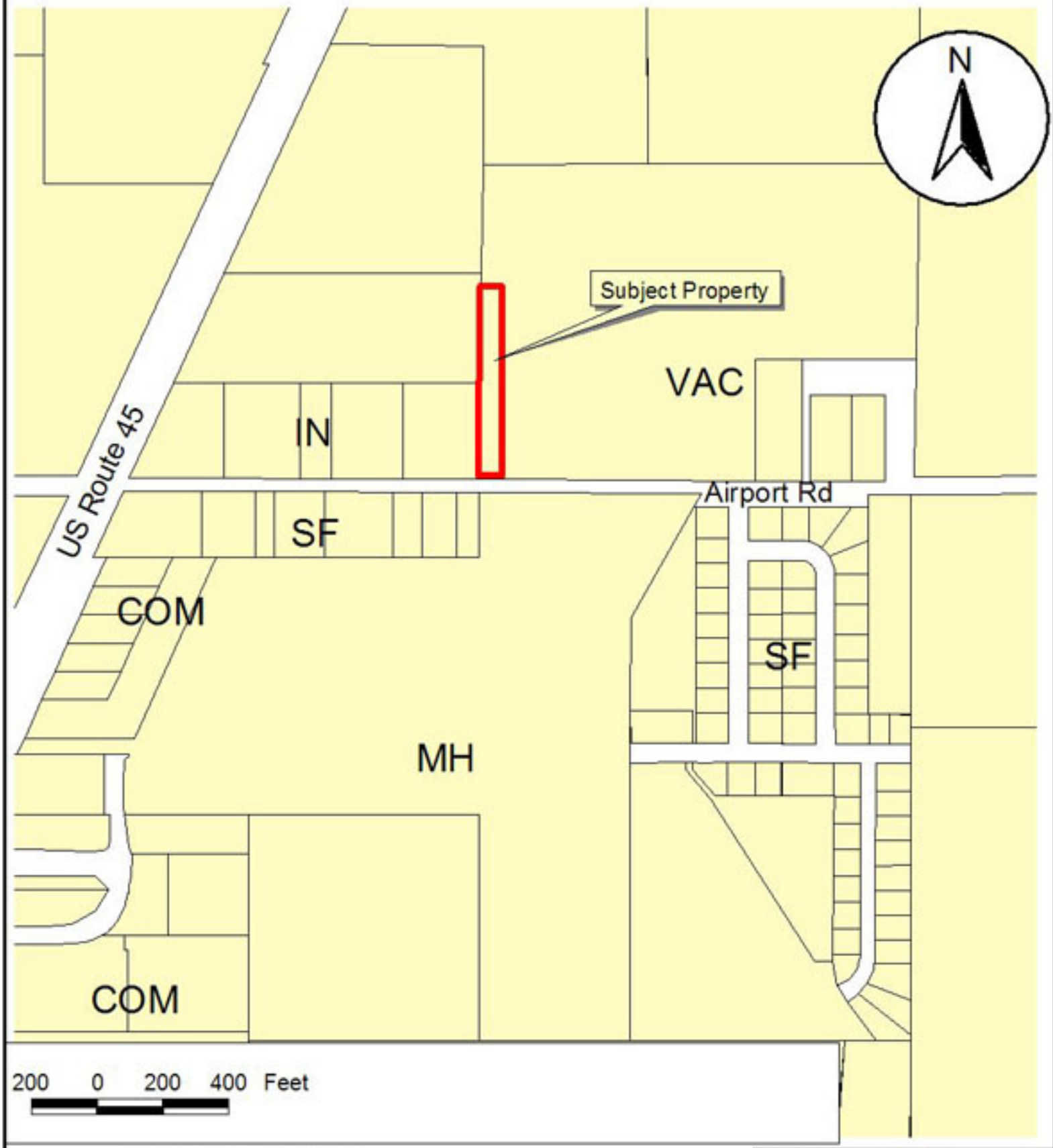
CITY OF URBANA

Prepared 06/26/2006 by Community Development Services - mhw

# Exhibit C: Existing Land Use Map

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SF - Single Family
IN - Industrial
COM - Commercial
MH - Mobile Homes

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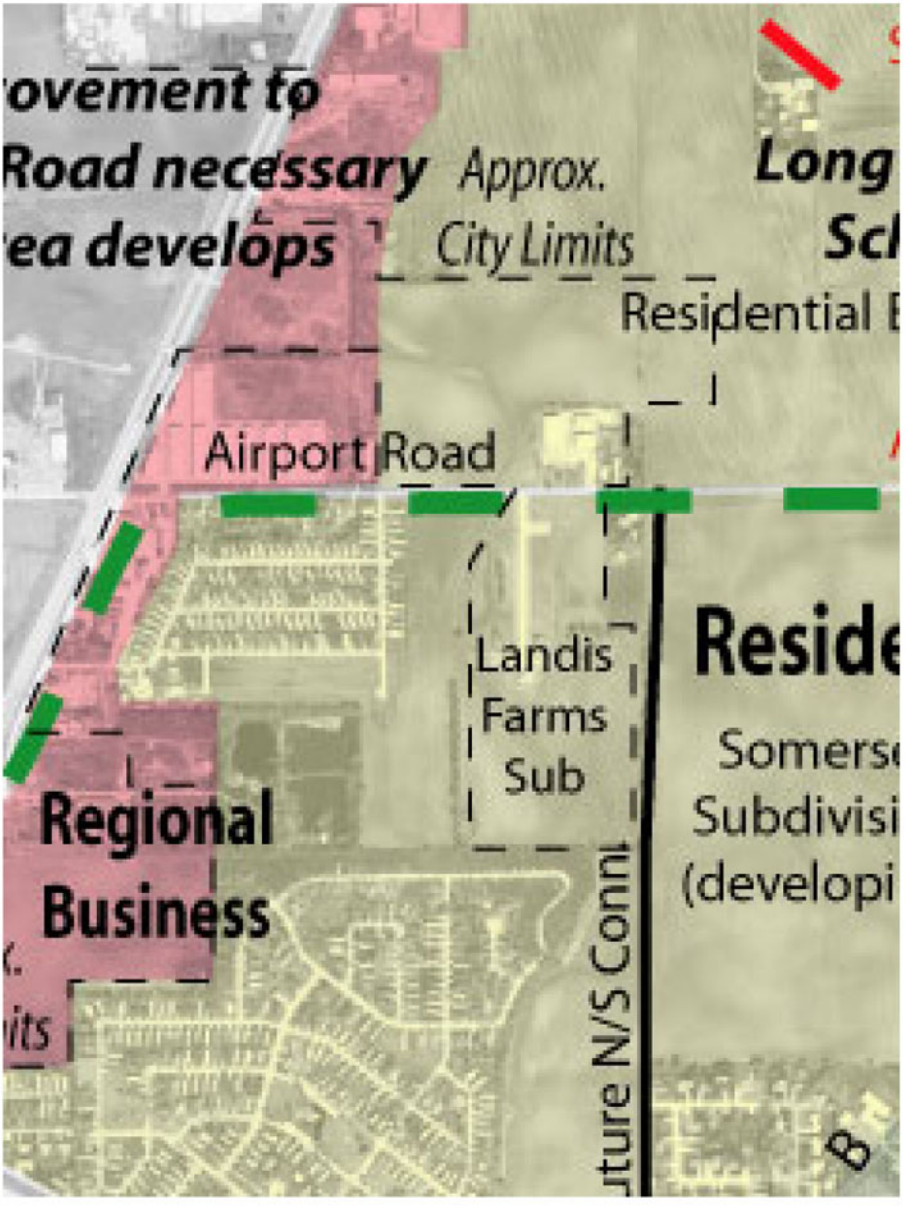
# Exhibit D: Future Land Use Map




Plan Case: 2005-A-10
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Prepared 06/26/2006 by Community Development Services - mhw

# Exhibit E: Aerial Map

Plan Case: 2005-A-10
Petitioner: Greg Reynolds and Denise Reidy
Location: North of Airport, East of US Route 45
Description: An annexation agreement between the City of Urbana and Greg Reynolds and Denise Reidy, including a rezoning to R-2, Single-Family Residential

Prepared 06/26/2006 by Community Development Services - mhw

# Annexation Agreement

(1714 East Airport Road / Gregory Reynolds and Denise Reidy)

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 **Gregory Reynolds and Denise Reidy** (hereinafter referred to as the "Owners"). 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, Gregory Reynolds and Denise Reidy are the Owners of record of a certain parcel of real estate located at 1714 East Airport Road totaling approximately 1.80 acres, 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 located within the Champaign County AG-2, Agricultural Zoning District; and

WHEREAS, the Corporate Authorities and the Owners find it necessary and desirable that the tract be annexed to the City with a zoning classification of R-2, Single-Family Residential, under the terms and provisions of the Urbana Zoning Ordinance in effect upon the date of annexation, as amended, and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Corporate Authorities find annexation of the tract as described herein 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 Owners desire 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 OWNERS**

The Owners agree to the following provisions:

**Section 1. Ownership and Annexation:**

(a) The Owners represent that the Owners are the sole record Owners of the tract described in Exhibit A and that the Owners shall, within thirty (30) days of the approval of this agreement cause the tract to be annexed to the City of Urbana by filing a legally sufficient annexation petition with all required signatures thereon, all in accordance with Illinois Statutes. Until annexation of the subject tract 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 Owners shall not file a petition for the disconnection of the tract from the City.

(b) 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 tract. If the subject tract is to be platted for subdivision, the Owners agree that the substance of this provision regarding annexation shall be included in the subdivision covenants and such will constitute a covenant running with the land.

(c) The Owners agree that if the Owners fail to include the substance of Section 1(a) of this Agreement in sales contracts or subdivision covenants, as provided herein, and if said annexation is delayed or contested by subsequent owner(s) as a result, the Owners shall be liable to the City for all real estate taxes and other taxes that would have been due to the City had annexation been able to proceed as outlined herein. The Owners agree for themselves, 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. Zoning:** The Owners acknowledge that upon annexation, the tract will be rezoned from County AG-2, Agricultural to City R-2, Single-Family Residential. The Owners agree that, unless changed upon the initiative of the Owners, the said City zoning classification 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. Furthermore, the Owners agree to abide by all applicable development regulations existing at the time of annexation.

**Section 3. Adjacent Territory Rezoning:** The Owners agree to submit an application to rezone the portion of the Owners' property currently located within the corporate limits (see Exhibit C) from City IN, Industrial to City R-2, Single-Family Residential within 90 days of the approval of this agreement.

**Section 4. Subdivision:** The Owners agree to prepare and record a minor subdivision plat per the Urbana Subdivision and Land Development Code within 90 days of the approval of this Agreement. The minor subdivision plat shall combine the portion of the Owners' land in unincorporated Champaign County (west half) with the portion within the corporate limits (east half) to create a single lot (see Exhibit C). The Owners further agree to dedicate 40 feet of right-of-way along Airport Road as part of the minor subdivision plat and include a deferral for sidewalk construction on the minor subdivision plat.

**Section 5. Accessory Structure Variance:** The Owners agree to submit an application for a Major Variance to permit an increase in the maximum size of an accessory structure up to 3,500 square feet per the Urbana Zoning Ordinance within 90 days of the approval of this Agreement. The Major Variance application shall pertain to the portion of the accessory structure located within the corporate limits (see Exhibit C).

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

The Corporate Authorities agree to the following provisions:

**Section 1. Agreement to Annex:** 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 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 the tract will be zoned City R-2, Single-Family Residential upon annexation and as defined in the City of Urbana Zoning Ordinance as such exists at the time of annexation of the tract. The Corporate Authorities agree that all applicable development regulations existing at the time of annexation will apply to said tract. 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. The

Corporate Authorities further agree that the granting of the Zoning Map Amendment would be consistent with the LaSalle Criteria established by the Illinois Supreme Court in *LaSalle National Bank v. The County of Cook:*

a. The existing land uses and zoning of the nearby property.

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

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

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

e. The suitability of the subject property for the zoned purposes.

f. The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.

**Section 3. Adjacent Territory Rezoning:** The Corporate Authorities agree to consider approval of a Zoning Map Amendment for the portion of the Owners' property in the corporate limits from IN, Industrial to R-2, Single-Family Residential, as shown in Exhibit C, in order to provide for consistent zoning of the Owners' property.

**Section 4. Subdivision:** The Corporate Authorities agree to approve a minor subdivision plat per the Urbana Subdivision and Land Development Code to combine the portion of the Owners' land in unincorporated Champaign County (west half) with the portion within the corporate limits (east half) to create a single lot (see Exhibit C), including a deferral for sidewalk construction along the north side of Airport Road adjacent to the Owners' property. The City Engineer shall not require sidewalk construction until such time as a sidewalk exists on adjacent properties on either side of the tract.

**Section 5. Accessory Structure Variance:** The Corporate Authorities hereby grant a Variance to allow the portion of the 3,500 square foot accessory structure located outside the corporate limits, in excess of the 1,000 square feet permitted by the Zoning Ordinance, as illustrated in Exhibit B. This additional size will permit the Owners to maintain the accessory structure, which was constructed prior to any of the Owners' land incorporating into the City of Urbana. Until the Major Variance is approved, the accessory structure shall be considered legally non-conforming. The Corporate Authorities further agree that the granting of this variance is consistent with the established criteria identified in Section XI-3 of the Urbana Zoning Ordinance, in that the variance:

a. will not serve as a special privilege because the variance requested is due to special conditions and circumstances relating to the land or structure involved or

to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district;

b. was not the result of a situation or condition having been knowingly or deliberately created by the Owner or Developer;

c. will not alter the essential character of the neighborhood;

d. will not cause a nuisance to adjacent property;

e. represents, generally, the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.

f. is the result of practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land.

**Section 6. Adjacent Territory Accessory Structure Variance:** The Corporate Authorities agree to consider approval of a Major Variance to allow the portion of the 3,500 square foot accessory structure located within the corporate limits, in excess of the 1,000 square feet permitted by the Zoning Ordinance, as illustrated in Exhibit C. This additional size will permit the Owners to maintain the accessory structure, which was constructed prior to any of the Owners' land incorporating into the City of Urbana.

## 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.

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 term of this Agreement unless specific terms are expressly made binding beyond the term of this Agreement. Furthermore, the terms herein are hereby expressly made binding upon all heirs, grantees, lessee, executors, assigns and successors in interest of the Owners as to all or any part of the tract, and are further

expressly made binding upon said City and the duly elected or appointed successors in office of its Corporate Authorities.

**Section 3. Binding Agreement upon parties:** The Corporate Authorities and 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 tract 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 either 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. Contingent Agreement.** This Agreement shall be contingent upon the successful execution (a.) of the obligations set forth in Articles I and II, and (b.) of all necessary Agreements and approvals. If any of these contingencies are not fulfilled, then this Annexation Agreement shall be null and void. In all cases requiring the approval of the Corporate Authorities, such Corporate Authorities shall not unreasonably withhold such approval.

**Section 7. 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 Owner have hereunto set their hands and seals, and have caused this instrument to be signed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year written below.

**Corporate Authorities**
**City of Urbana:**

_____
Laurel Lunt Prussing, Mayor

_____
Date

**Owner:**

_____
Gregory Reynolds

_____
Date

_____
Denise Reidy

_____
Date

**ATTEST:**

_____
Phyllis D. Clark
City Clerk

_____
Date

**ATTEST:**

_____
Notary Public

_____
Date

Exhibits attached and made a part of this Agreement:

Exhibit A: Legal Description
Exhibit B: Location Map
Exhibit C: Site Requirements Map

**Exhibit A**
**Legal Description**

PART OF THE NORTH 5 7/8 ACRES OF LOT 1 OF A SUBDIVISION OF THE WEST ½ OF THE NE ¼ OF SECTION 3, T. 19N., R. 9 E. OF THE 3RD P.M., AS SHOWN IN THE PARTITION OF JOHN BROWNFIELD ESTATE BEING CHANCERY NO. 845, FILED JUNE 19, 1953 (BEING THE SAME AS LOT 12 IN THE ASSESSOR'S PLAT OF THE NORTH ½ OF SECTION 3, T. 19N., R. 9 E. OF THE 3RD P.M., PER PLAT RECORDED IN DEED RECORD 19, PAGE 599), BEING A PART OF THE NW ¼ OF THE NE ¼ OF SECTION 3, T. 19N., R. 9 E. OF THE 3RD P.M., SITUATED IN CHAMPAIGN COUNTY, ILLINOIS, EXCEPT:

THE NORTH 133 FEET OF THE WEST 200 FEET OF THE EAST 210 FEET OF LOT 1 AND THE SOUTH 167 FEET OF THE NORTH 200 FEET OF THE WEST 144 FEET OF THE EAST 154 FEET OF SAME LOT 1, SITUATED IN CHAMPAIGN COUNTY,ILLINOIS, CONTAINING 0.156 ACRES, MORE OR LESS.

**Exhibit B**
**Location Map**

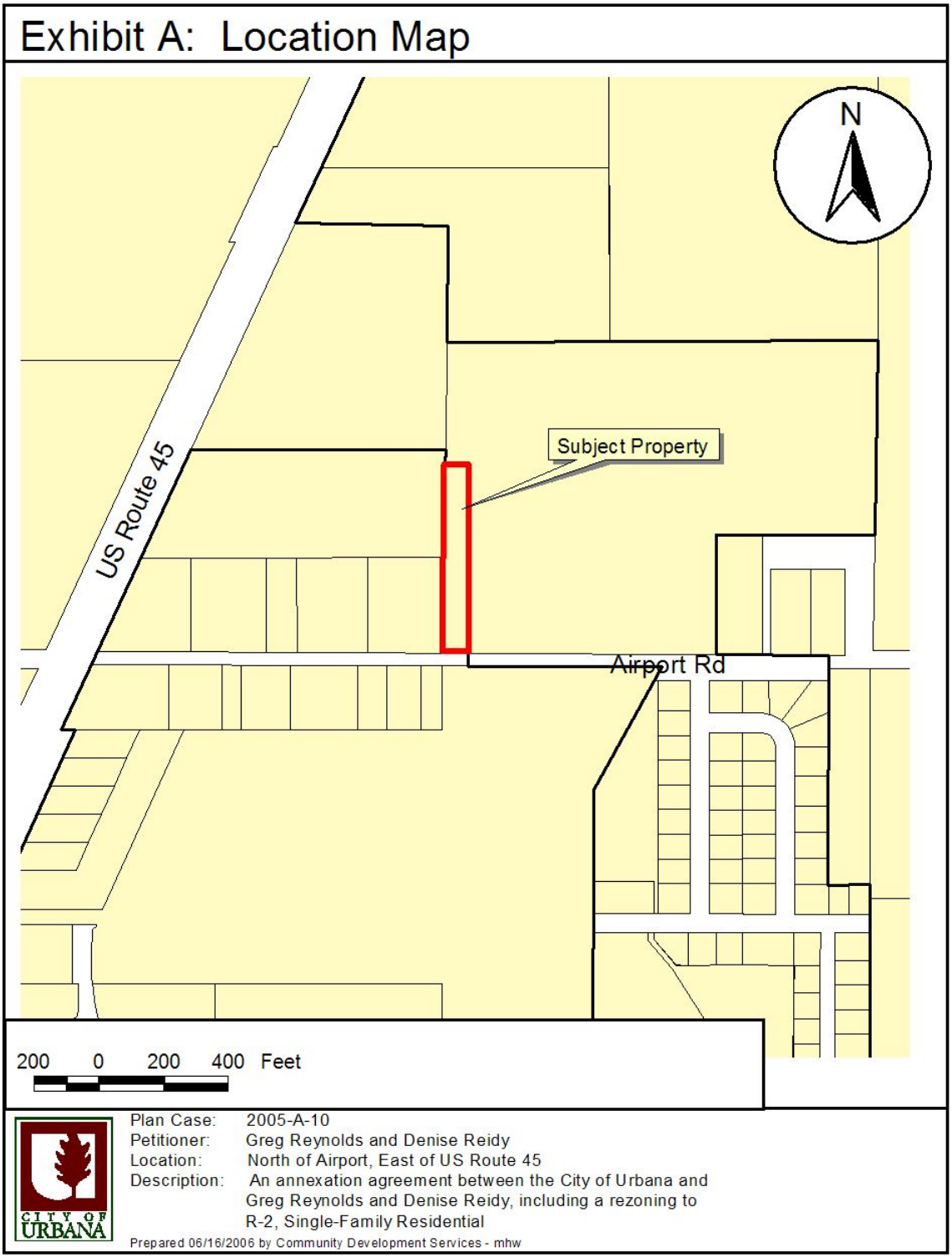
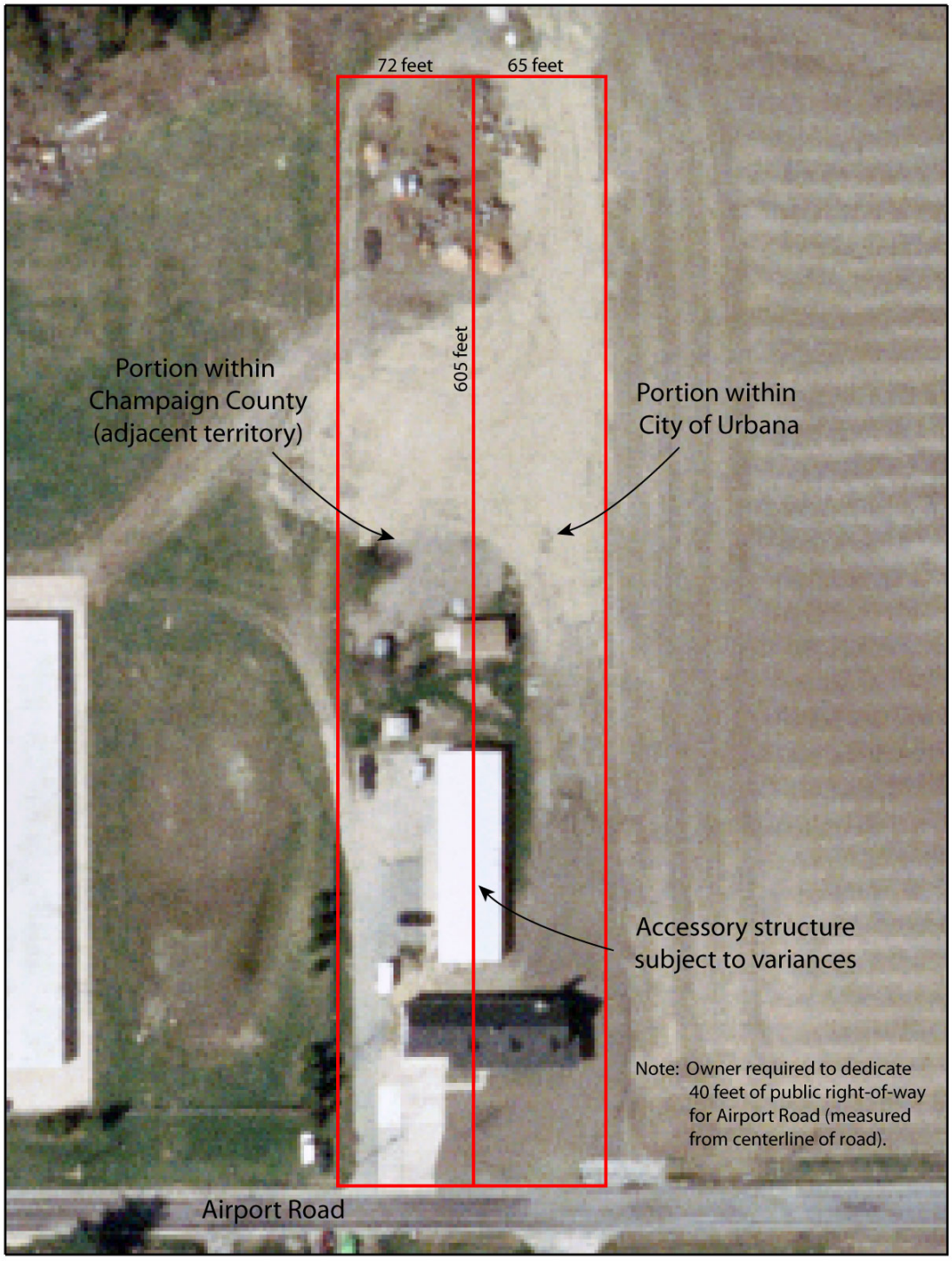
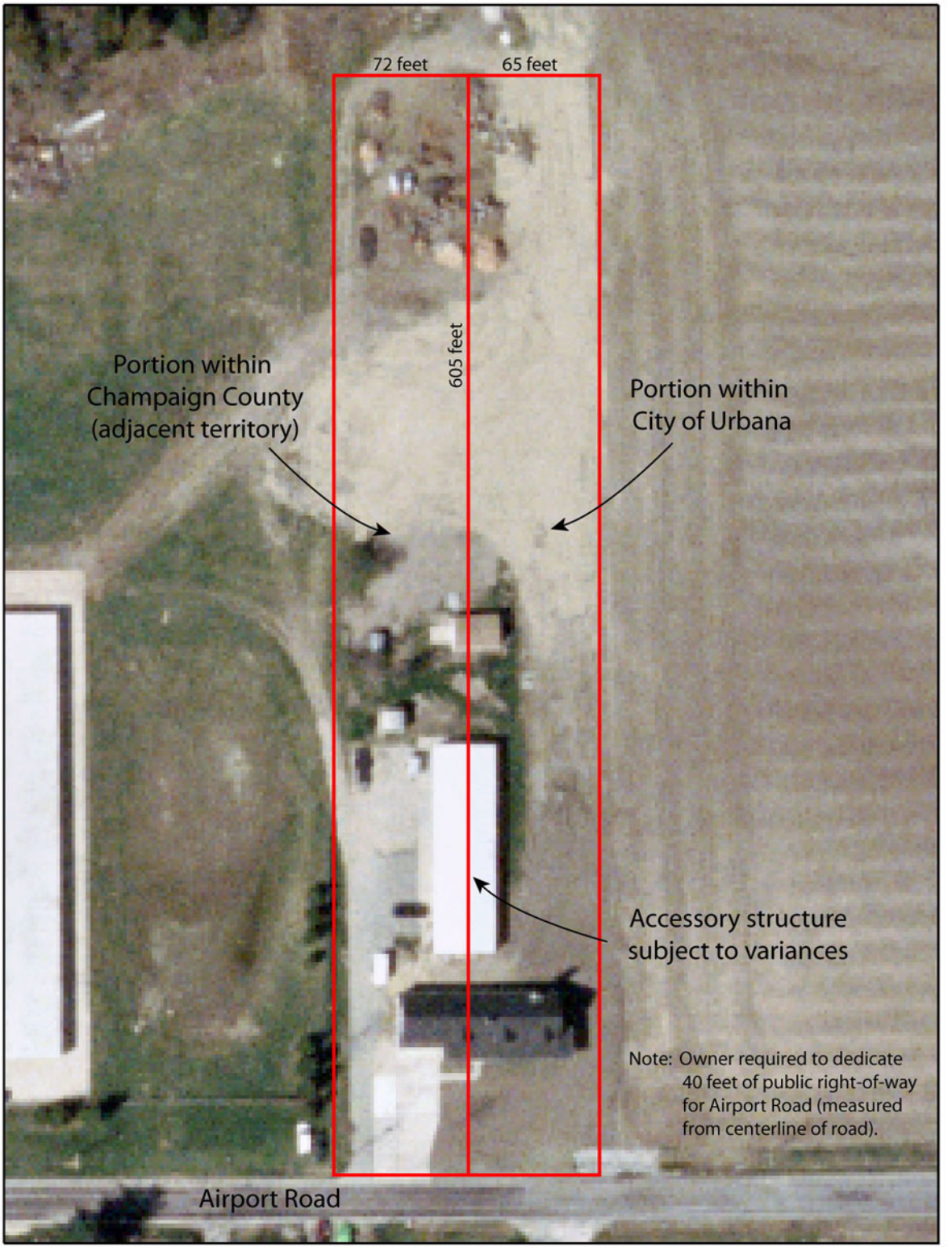


**Exhibit C**
**Site Requirement Map**



# Exhibit G: Site Requirements Map



ORDINANCE NO. 2006-07-098

An Ordinance Approving and Authorizing the Execution of an Annexation Agreement

(1714 E. Airport Road / Gregory Reynolds and Denise Reidy)

WHEREAS, an Annexation Agreement between the City of Urbana, Illinois and Gregory Reynolds and Denise Reidy 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 0.96-acres located at 1714 E. Philo Road and said tract is legally described as follows:

PART OF THE NORTH 5 7/8 ACRES OF LOT 1 OF A SUBDIVISION OF THE WEST ½ OF THE NE ¼ OF SECTION 3, T. 19N., R. 9 E. OF THE 3RD P.M., AS SHOWN IN THE PARTITION OF JOHN BROWNFIELD ESTATE BEING CHANCERY NO. 845, FILED JUNE 19, 1953 (BEING THE SAME AS LOT 12 IN THE ASSESSOR'S PLAT OF THE NORTH ½ OF SECTION 3, T. 19N., R. 9 E. OF THE 3RD P.M., PER PLAT RECORDED IN DEED RECORD 19, PAGE 599), BEING A PART OF THE NW ¼ OF THE NE ¼ OF SECTION 3, T. 19N., R. 9 E. OF THE 3RD P.M., SITUATED IN CHAMPAIGN COUNTY, ILLINOIS, EXCEPT:

THE NORTH 133 FEET OF THE WEST 200 FEET OF THE EAST 210 FEET OF LOT 1 AND THE SOUTH 167 FEET OF THE NORTH 200 FEET OF THE WEST 144 FEET OF THE EAST 154 FEET OF SAIL LOT 1, SITUATED IN CHAMPAIGN COUNTY,ILLINOIS, CONTAINING 0.156 ACRES, MORE OR LESS.

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 17th day of July, 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 AG-2, Agriculture to the City R-2, Single-Family Residential Zoning District upon annexation in Plan Case Nos. 2005-A-10 and 1903-M-04; 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 2005 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 Gregory Reynolds and Denise Reidy, 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(1714 E. Airport Road / Gregory Reynolds and Denise Reidy)" 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**

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**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

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**NEW PUBLIC HEARINGS**

**Plan Case No. 2005-A-10 – Annexation Agreement between the City of Urbana, Gregory Reynolds, and Denise Reidy for an approximately 1.80-acre tract of property located at 1714 East Airport Road.**

**Plan Case No. 1903-M-04 – A request by Gregory Reynolds and Denise Reidy to rezone a 0.96-acre tract of property at 1714 East Airport Road from Champaign County AG-2, Agriculture Zoning District, to City R-2, Single-Family Residential Zoning District, upon annexation.**

Matt Wempe, Planner II, presented these two cases together to the Plan Commission. He talked about the history of the proposed property. He also talked about the proposed rezoning of the property to R-2, Single-Family Residential Zoning District, about the accessory structure variance, and about the minor subdivision plat. He reviewed the La Salle National Bank criteria as they pertain to a comparison of the existing zoning with that proposed by the petitioner. He reviewed the variance criteria from Section V-2 of the Urbana Zoning Ordinance. He read the options of the Plan Commission and presented staff's recommendation, which was as follows:

*In Plan Cases 2005-A-10 and 1903-M-04, staff recommends approval of the proposed annexation agreement as presented in the written staff report.*

Mr. White assumed that approval of the major variance for the accessory structure is one of the petitioners' conditions to allow them to be annexed. Mr. Wempe stated that it is not a matter of the petitioners allowing themselves to be annexed. They have to annex. The proposed case came from a zoning enforcement case. Annexing of the property is not hinging upon the approval of the major variance. Mr. White commented that if the major variance is not allowed, then the annexation would still happen. Mr. Wempe said that any changes would have to be approved by the property owners, but they would still have to go forward with the annexation in some capacity.

Mr. Grosser asked if there would be fire protection service available now. Mr. Wempe pointed out that the Urbana Fire Department serves areas up to the proposed property, so they would be able to service it as well.

Mr. Pollock pointed out that the property directly to the east of the proposed property is zoned City IN, Industrial Zoning District. However, it is vacant farmland. Did staff have any concerns about an R-2 Zoning District being located next to IN? Did staff feel that this designation needed to be adjusted? Mr. Wempe replied that the designation would need to be adjusted if it was ever to be developed. The 2005 Comprehensive Plan shows this area as being residential. They have not had any development prospects for the GKC property. The City would support a residential development instead of an industrial development. Mr. Pollock pointed out that an industrial development could happen by right.

Chair Pollock opened the floor up for public input. With there being none, Chair Pollock closed the public input portion of the hearing and opened the floor for discussion and action from the Plan Commission.

Mr. White moved that the Plan Commission forward Annexation Case No. 2005-A-10 and Plan Case No. 1903-M-04 to the Urbana City Council with a recommendation for approval. Mr. Ward seconded the motion.

Mr. White moved to include an amendment to the motion that the Plan Commission recommend to City Council to not allow the major variance for the accessory structure. Mr. Grosser seconded the motion for an amendment.

Mr. Pollock asked staff what the impact of the amendment would be on the annexation and rezoning cases. Mr. Wempe stated that the existing accessory structure would become legally nonconforming when annexed into the City of Urbana. If the accessory structure were ever destroyed, then the property owners could not rebuild it.

Chair Pollock called for a vote on the motion to amend. The motion to amend was passed by a vote of 5 to 2 in a hand vote.

Roll call on the main motion including the amendment was as follows:

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

The main motion was approved by unanimous voice vote. Mr. Wempe noted that these two cases would go before the City Council on July 17, 2006.