



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Director

DATE: August 20, 2009

SUBJECT: Annexation Case No. 2009-A-05: Annexation Agreement between the City of Urbana and Terrance A. Bialeschki for a 0.65-acre tract of property known as 2707 East Airport Road

Introduction & Background

Terrance A. Bialeschki is requesting approval of an annexation agreement for property he owns at 2707 East Airport Road. The property consists of two parcels totaling 0.65 acres that are located southwest of the intersection of East Airport Road and Brownfield Road. (See Exhibit A) There is an accessory structure currently on the parcel. Mr. Bialeschki is proposing to construct a single-family home on the subject parcel.

The subject property is not currently contiguous to the city limits, but is within the mile-and-a-half extraterritorial jurisdictional area. A sanitary sewer connection is needed to serve the single-family home that is proposed to be constructed. Under an intergovernmental agreement with the Urbana-Champaign Sanitary District (UCSD), any property owner outside the corporate limits of Urbana that is requesting to connect to the sanitary sewer service must also agree to annex to the City of Urbana at such time as their property is contiguous. To comply with the intergovernmental agreement between the City and the UCSD, the property owner is requesting approval of an annexation agreement.

A public hearing with the Urbana City Council concerning the proposed annexation agreement between the City and Terrance Bialeschki is scheduled for September 8, 2009 at 7:00 p.m. The annexation agreement is also on the agenda that evening for City Council consideration.

Issues and Discussion

The proposed annexation agreement outlines the basic provisions for annexing into the City of Urbana. (See Exhibit C) There are no special incentives offered on behalf of the City to the owner in order to annex. The following is a discussion of specific provisions that are provided for in the proposed annexation agreement:

- Zoning: The subject property is zoned R-1, Single Family Residence in unincorporated Champaign County. The agreement would provide for the direct conversion to the City's R-1, Single -Family Residential Zoning District upon annexation. The subject property is surrounded by residential uses to the east, west and south. The property to the north, across East Airport Road, is agricultural in nature. The future land use of the subject property is designated as "Residential" in the 2005 Urbana Comprehensive Plan. The proposed R-1 Zoning District would be consistent with the current use of the property, the current use of surrounding properties, and the future land use designation of the subject property in the Comprehensive Plan.
- Development Regulations: There are no special provisions requested at the City level. The proposed construction of the single-family home as well as any future construction would be required to meet the development regulations of the Urbana Zoning Ordinance. Based on the proposed site layout submitted by the petitioner, the proposed development will meet the required setbacks of the Urbana Zoning Ordinance for the R-1 Zoning District. (See Exhibit B) The petitioner has applied for an administrative variance for an encroachment in the required front yard setback along East Airport Road from Champaign County. The County is anticipated to make a determination on the proposed administrative variance on August 27, 2009. Staff will report the findings before final actions are taken by the City Council.
- Building Code Compliance: The proposed single-family home as well as all future new development, construction or additions would need to be in conformance with all City of Urbana building, electrical, fire and plumbing codes, orders or regulations in effect at the time of annexation.
- Right-of Way Dedication: The petitioner agrees to dedicate right-of way along East Airport Road equal to forty (40) feet south of the Section Line. The right-of-way will be dedicated via the petitioner signing, concurrently with the execution of the proposed annexation agreement, a right-of-way dedication document prepared by the City of Urbana. The right-of-way dedication document is being prepared by staff and will be included in the City Council's packet for the September 8, 2009 Council Meeting. Dedication of 40-feet of right-of-way would be consistent with right-of-way that has been dedicated with previous subdivisions and properties along East Airport Road.

Summary of Findings

1. The subject property is not currently contiguous to the city limits, but is within the mile-and-a-half extraterritorial jurisdictional area. A sanitary sewer connection is needed to serve the proposed single-family home; therefore, an annexation agreement is required under the agreement between the City and the Urbana-Champaign Sanitary District.
2. The proposed annexation agreement provides for the direct conversion from R-1, Single Family Residence in Champaign County to the City of Urbana R-1, Single-Family Residential Zoning District upon annexation to the City.

3. The proposed R-1 zoning designation would be consistent with the current use of the property, the current use of surrounding properties, and the future land use designation of the subject property in the 2005 Urbana Comprehensive Plan.
4. The proposed single-family home as well as all future new development, construction or additions to the subject property would need to be in full compliance with all the codes and ordinances of the City of Urbana.
5. The petitioner agrees to dedicate necessary right-of way along East Airport Road by signing, concurrently with the execution of the proposed annexation agreement, a right-of-way dedication document prepared by the City of Urbana.

Options

In Annexation Case 2009-A-05, the Committee of the Whole has the following options:

- a. Forward to City Council with a recommendation for approval; or
- b. Forward to City Council with a recommendation for approval, subject to recommended changes. (Note: The petitioner would have to agree to any recommended changes.)
- c. Forward to City Council with a recommendation for denial.

Staff Recommendation

Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Committee of the Whole forward the proposed Annexation Agreement in Case No. 2009-A-05 to the City Council with a recommendation for **APPROVAL**.

Prepared By:

Lisa Karcher, Planner II

cc: Terrance A. Bialeschki, 807 South Walnut Street, Urbana, IL 61801

Attachments: Draft Ordinance Approving an Annexation Agreement
Exhibit A: Location Map
Exhibit B: Proposed Site Layout and Boundary Survey
Exhibit C: Draft Annexation Agreement

ORDINANCE NO. 2009-08-094

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT
(2707 East Airport Road / Terrance A. Bialeschki)

WHEREAS, an Annexation Agreement between the City of Urbana, Illinois and Terrance A. Bialeschki 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 0.65 acres located at 2707 East Airport Road and said tract is legally described as follows:

Tracts One (1) and Two (2) of Jacob H. Henning's Resurvey and Replat situated in the Northwest Quarter of the Northeast Quarter of Section Three (3) in Township Nineteen (19) North, Range Nine (9) East of the Third Principal Meridian as per plat recorded in Plat Book "F" at page 267 and 268, situated in the County of Champaign and the State of Illinois.

WHEREAS, the City Clerk of Urbana, Illinois, duly published notice on the 22nd day of August, 2009 in the News-Gazette, a newspaper of general circulation in the City of Urbana, that a public hearing would be held before the Urbana City Council on the matter of the proposed Annexation Agreement on the 8th day of September, 2009; and

WHEREAS, the City of Urbana, Illinois also mailed notice of the public hearing to the Chief and each of the Trustees of the Carroll Fire Protection District on the 21st day of August, 2009; and

WHEREAS, on the 8th day of August, 2009, the Urbana City Council held a public hearing on the proposed Annexation Agreement; and

WHEREAS, the Urbana City Council has determined that the proposed Annexation Agreement is in conformance with the goals and objectives of the City of Urbana's Official Comprehensive Plan; and,

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed annexation

agreement will not negatively impact the City of Urbana and would be in the best interests of the City of Urbana and its citizens;

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

Section 1. The Annexation Agreement between the City of Urbana, Illinois and Terrance A. Bialeschki, a copy of which is attached and hereby incorporated by reference, be and the same is hereby authorized and approved.

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

Section 3. The City Clerk is directed to record a certified copy of this Ordinance and the Annexation Agreement herein approved, as amended, with the Recorder of Deeds of Champaign County, Illinois.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of two-thirds of the members of the Corporate Authorities of the City of Urbana, Illinois, then holding office, at a regular meeting of said Council.

PASSED by the City Council this _____ day of _____, 20____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

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

Laurel Lunt Prussing, Mayor

Exhibit A: Location Map



Annexation Case: 2009-A-05
Petitioner: Terrance A. Bialeschki
Address: 2707 East Airport Road
PIN No.: 30-21-03-203-006 and 30-21-03-203-007
(combined as: 30-21-03-203-012)

Prepared 8/2009 by Community Development Services - Ikk



Brownfield Rd.

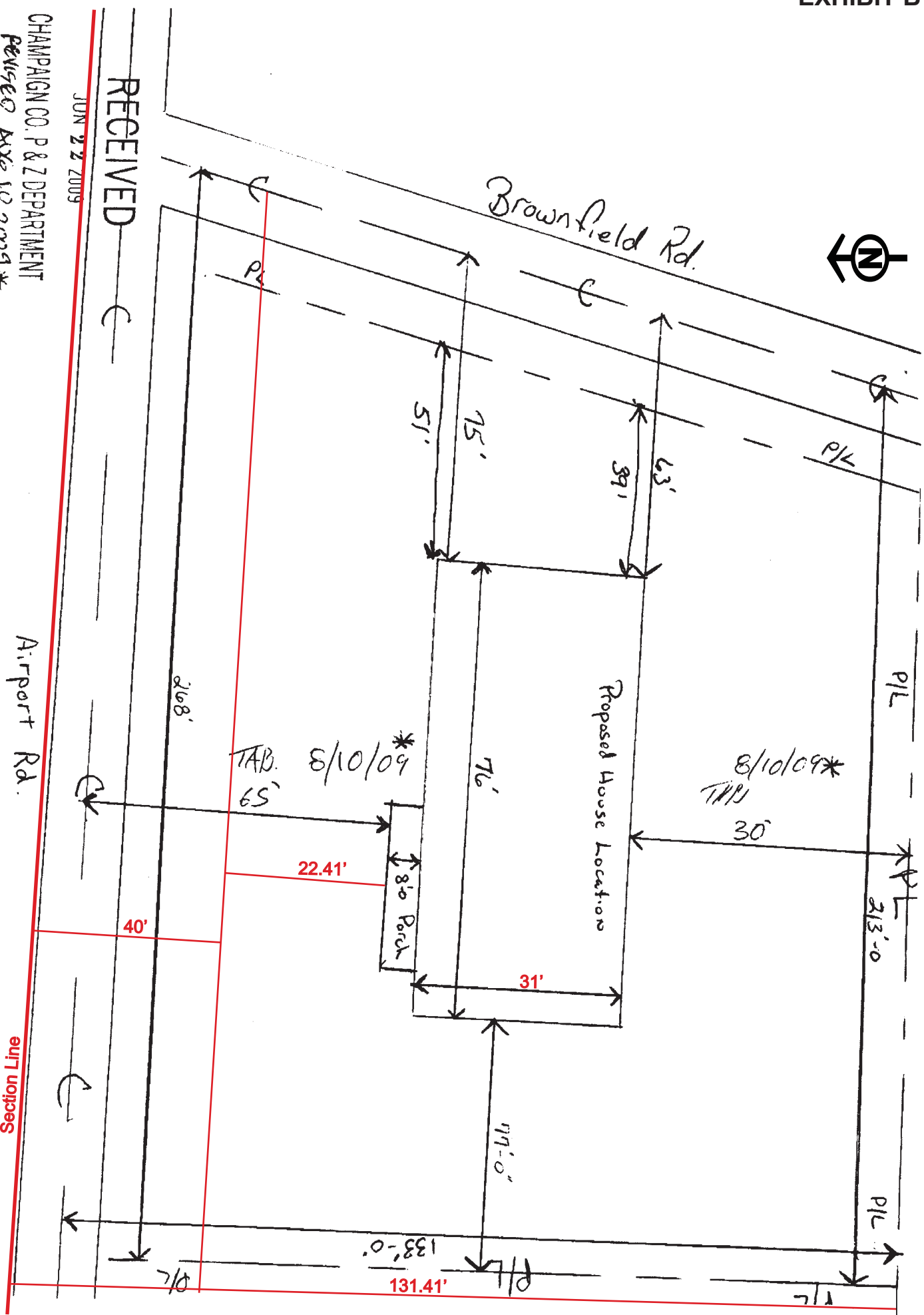
RECEIVED

JUN 22 2009

CHAMPAIGN CO. P & Z DEPARTMENT
REVISED AUG 10 2009*

Airport Rd.

Section Line



Annexation Agreement

(2707 East Airport Road/Terrance A. Bialeschki)

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 **Terrance A. Bialeschki** (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, Terrance A. Bialeschki is the Owner of record of a certain 0.65-acre parcel of real estate located at 2707 East Airport Road, and having permanent index number 30-21-03-203-006 and 30-21-03-203-007 (combined as 30-21-03-203-012), the legal description of which real estate is set forth in Exhibit 1 attached hereto and referenced herein as "the tract".

WHEREAS, the attached map, labeled Exhibit 2, is a true and accurate representation of the tract to be annexed to the City of Urbana under the provisions of this agreement.

WHEREAS, although the tract is not yet contiguous to the City of Urbana, the owner finds that in order to best utilize the said tract, it is desirous to enter into this agreement to annex the tract to the City of Urbana when the said tract becomes contiguous to the City, pursuant to and as provided for in this annexation agreement.

WHEREAS, the tract is currently zoned R-1, Single Family Residence in Champaign County and the City and the Owner find it necessary and desirable that the tract be annexed to the City with a zoning classification of R-1, 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, such annexation will ensure that the City of Urbana will receive real estate taxes and other revenues and will enable the City to continue to enhance its tax base; and

WHEREAS, the 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.

- (a) The Owner represents that he is the sole owner of record of the tract described in Exhibit A and that he shall, within thirty (30) days of the property becoming contiguous to the Urbana City limits 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, Owner 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 Owner shall file such written agreement with the City Clerk within thirty (30) days of the signing of such.
- (b) 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 tract. 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 covenants and such will constitute a covenant running with the land.
- (c) Owner agrees that if he fails 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 Owner 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 Owner agrees for himself, 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 Classification. The Owner agrees to accept the direct conversion of Champaign County zoning to City of Urbana zoning classification as provided for by the Urbana Zoning Ordinance Section IV-5 and as such exists at the time of annexation.

Section 3: Development Regulations. The Owner agrees to abide by all applicable development regulations, as may be amended from time to time.

Section 4: Building Code Compliance. The Owner agrees to cause any/all new development, construction, or additions on said tract to be in conformance with all City of Urbana building, electrical, fire and plumbing codes, orders or regulations in effect at the time of annexation. The Owner agrees to submit all building construction plans to the City of Urbana for review and further agrees to pay the building permit fee just as though the construction were taking place within the Urbana City limits. The Owner further agrees to correct any deficiencies identified in said plan review. In addition the Owner agrees that all construction will be subject to the same building and construction inspection requirements as construction projects within the City limits.

Section 5: 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 both the Owner and the City. Said action includes petitioning for a county rezoning of said tract without a written amendment to this Agreement.

Section 6: Right-of-Way Dedication. The Owner agrees to dedicate right-of-way along East Airport Road equal to forty (40) feet south of the Section Line by signing, concurrently with the execution of this annexation agreement, a right-of-way dedication document prepared by the City of Urbana and attached hereto as Exhibit 3.

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 that the tract will be zoned R-1, Single-Family Residential per the conversion of Champaign County zoning to City of Urbana zoning classification as provided for by the Urbana Zoning Ordinance or whatever zoning classification is provided for in such conversion table at the time of annexation. 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 Owner requesting said change, the Corporate Authorities reserve the right to amend the Zoning Ordinance text even if such amendment affects the property. If the zoning district referenced herein is not in existence at the time of the annexation, the parties agree to reclassify said property to the most comparable zoning classification as is determined by the Zoning Administrator.

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 Owner, his 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 constitutes 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, mortgagees, lessee, executors, assigns and successors in interest of the Owner 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 Owner 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 Owner and the City.

Section 4: Enforcement. The Owner 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 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.

Section 7: Irrevocability. In consideration of the City of Urbana granting approval allowing an Urbana-Champaign sanitary sewer connection pursuant to Resolution No. 9394-R13, this offer of annexation agreement is not revocable for a period of ninety (90) days from the date of execution by owners.

IN WITNESS WHEREOF, the Corporate Authorities and the 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 Prussing, Mayor

Terrance A. Bialeschki

Date

Date

ATTEST:

ATTEST:

Phyllis D. Clark
City Clerk

Notary Public

Date

Date

Exhibits attached and made a part of this Agreement:

- Exhibit A: Legal Description
- Exhibit B: Location Map
- Exhibit C: Right-of-Way Dedication Document

Exhibit 1
Legal Description

Tracts One (1) and Two (2) of Jacob H. Henning's Resurvey and Replat situated in the Northwest Quarter of the Northeast Quarter of Section Three (3) in Township Nineteen (19) North, Range Nine (9) East of the Third Principal Meridian as per plat recorded in Plat Book "F" at page 267 and 268, situated in the County of Champaign and the State of Illinois.

Permanent Parcel Nos.: 30-21-03-203-006 and 30-21-03-203-007
(combined as 30-21-03-203-012)

Exhibit 2: Location Map



Annexation Case: 2009-A-05
Petitioner: Terrance A. Bialeschki
Address: 2707 East Airport Road
PIN No.: 30-21-03-203-006 and 30-21-03-203-007
(combined as: 30-21-03-203-012)

Prepared 8/2009 by Community Development Services - Ikk