



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council

FROM: John A. Schneider, MPA, Director, Community Development Services Department

DATE: November 21, 2018

SUBJECT: **An Ordinance Disconnecting Certain Territory from the City Of Urbana** (2209 East Perkins Road / Thomas E. Burgin II)

Introduction

In 2016, the City received a request from Thomas E. Burgin II to disconnect a 1.668-acre parcel from the City. The parcel is located on the south side of Perkins Road between Brownfield Road and Cooks Lane, and is addressed as 2209 E. Perkins Road. The request to disconnect was considered by the Committee of the Whole on January 23, 2017. The Committee voted 4-3 to send the ordinance to disconnect to City Council. On February 6, 2017, the City Council deferred the case to a future Committee of the Whole meeting to allow staff and the petitioner time to work on a new annexation agreement, which would allow disconnection now but would require re-annexation in the future under certain conditions. At this time, the terms of a new agreement have not been agreed upon, nor does a new agreement seem likely. The request to disconnect must be resolved, however.

Illinois Municipal Code Section 7-3-4, 65 ILCS 5/7-3-4, authorizes a landowner to file a written petition requesting that the corporate authorities disconnect territory from a municipality. The decision by the municipal authorities to grant or to deny such a petition is discretionary.

In this case, there is no good reason for the City to grant the disconnection request. The property owner purchased a property within City limits, and the City is under no obligation to disconnect the property. Most importantly, disconnecting the property would negatively affect the City's ability to annex other properties along Brownfield Road, and could encourage others with property within the City to request disconnection.

The City Council should deny Mr. Burgin's request.

Summary Facts

- Tom Burgin has petitioned the City to disconnect (de-annex) 2209 East Perkins Road.
- The property was already in the City when Mr. Burgin purchased it.
- The City is under no legal obligation to grant Mr. Burgin's request, nor enter into a new annexation agreement.
- While Mr. Burgin's parcel is currently the only parcel within city limits along this stretch of Perkins Road, other nearby properties will be annexed into Urbana whenever they require a new sanitary sewer connection, for example, when a new house is built. Other nearby properties would require annexation agreements with Urbana if they require new sanitary sewer connections. Once those properties became adjacent to Urbana, they would be annexed into the City.
- Mr. Burgin's parcel is adjacent to developable land that would be in the City's long-term interest to annex; allowing Mr. Burgin to disconnect his property would make future annexation of this developable land more difficult or potentially impossible prior to development. It is in the City's best financial interests to annex land prior to its development due to reimbursement payments we must make to the townships and fire districts.
- Mr. Burgin's petition was heard by the Urbana City Council in 2017. The petition was kept in Committee to allow staff and Mr. Burgin time to draft a new annexation agreement that could appease both parties. No agreement was able to be reached, but the case should be resolved.

Discussion

The parcel at 2209 E. Perkins Road previously contained a single-family home, which was demolished by the previous owner. Mr. Burgin owns the parcel and the two lots to the west of it, which are in the County and contain a single-family home that he lives in. Mr. Burgin does not intend to build a new home at 2209 E. Perkins Road or develop the lot. He asked to disconnect the property from the City because he does not see a need to have City services at the property.

An ordinance approving an annexation agreement for 2209 E. Perkins Road between the City of Urbana, James Tull, and Scott Plunk was passed on December 21, 2009 (Exhibit F). Mr. Tull was the owner at the time the agreement was executed, and Mr. Plunk was interested in purchasing the property. Mr. Plunk wanted to demolish and replace the existing home and machine shed on the property. The annexation agreement included a major variance to allow these activities to take place. Plunk purchased the property and it was annexed into the City of Urbana on February 1, 2010 (Exhibit G).

Before he could build the new house and shed, Mr. Plunk passed away. His estate sold the property to Mr. Burgin in June 2015. Mr. Burgin does not intend to build a new house or machine shed. He owns the adjacent properties to the west, where he will reside, and plans to keep 2209 E. Perkins Road as open land. While Mr. Burgin does not intend to use the property as was planned when the annexation agreement and subsequent annexation petition were executed, the agreement was in effect

when he purchased the property and remains in effect until 2029. Article III, Section 1 of the annexation agreement states that it:

“...shall be binding upon the parties hereto, and their respective successors and assigns, for a full term of twenty (20) years...”

The surrounding area is developed with single-family homes and is suitable for having City services such as police, fire, and library provided. In addition, the property is a strategic link to future growth areas, especially the 40 acres of farmland directly across Perkins Road from the property (see Exhibit H). If that farmland is developed, it would make sense for the development to be incorporated into Urbana. Disconnecting the property from the City could slow or prevent future growth in the larger area.

The property is within the City’s Comprehensive Plan planning area. It is in a location that provides a linkage to other properties along Perkins Road, and is in a relatively more developed area along Perkins Road. Disconnecting this property could thwart growth in this area. It would also make it more expensive to annex currently undeveloped areas in the future. When a parcel is annexed, the City must compensate the township and fire protection district the parcel is in for lost tax revenue; it is therefore in the City’s best interest to annex parcels before they are developed. If the Burgin parcel is disconnected from the City, and the undeveloped parcel to the north is then developed, it will be more expensive for the City to annex that parcel at some future date.

Disconnection is therefore not in the City’s long-term plans or interests. As stated above, the property is also subject to an annexation agreement until 2029, and Mr. Burgin purchased the property knowing that the property was already part of the City and subject to the agreement.

Fiscal Impact

The proposed disconnection would have a minimal negative fiscal impact on the City. As currently assessed, disconnecting the property would remove about \$136 per year in property tax revenues from the City, as well as about \$123 from the Urbana Park District and \$20 from Cunningham Township. Demand for City services at this property is negligible.

Options

The Committee of the Whole should consider the petition and make a recommendation to City Council to:

A. Approve the disconnection petition for 2209 East Perkins Road;

OR

B. Deny the disconnection petition for 2209 East Perkins Road.

Recommendation

While Mr. Burgin will not use the property as intended by the previous owner, he bought it knowing that it was within the City's borders and subject to a current annexation agreement. Disconnecting the property from the City would remove a strategic link to future growth areas and could stymie the City's long-term plans, would make annexing currently undeveloped areas more costly for the City, and could encourage other property owners to petition the City to disconnect their property. For these reasons, staff recommends that the Committee of the Whole recommend that the City Council **DENY** the proposed disconnection petition.

Prepared by:



Kevin Garcia, AICP
Planner II

cc: Thomas E. Burgin II

Attachments: Exhibit A: Location Map
Exhibit B: Zoning Map
Exhibit C: Comprehensive Plan Map #2
Exhibit D: Disconnection Petition
Exhibit E: Disconnection Plat
Exhibit F: Original Annexation Agreement
Exhibit G: Original Annexation Petition
Exhibit H: Developable Areas

ORDINANCE NO. _____

AN ORDINANCE DISCONNECTING CERTAIN TERRITORY FROM THE CITY OF URBANA

(2209 East Perkins Road / Thomas E. Burgin II)

WHEREAS, in Ordinance No. 2010-01-005, passed by the Urbana City Council on February 1, 2010 and recorded as Document No. 2010R13552 in the Office of the Recorder, Champaign County, Illinois, the following described property, commonly known as 2209 East Perkins Road, was annexed:

Lot 102, except the west Twenty-Two (22) feet of even width thereof, of Tull's Replat Subdivision, a part of the NW ¼ of Section 10, Township 19 North, Range 9 East of the Third Principal Meridian located in Champaign County, Illinois, as recorded July 27, 2004 as Document # 2004R23616 in the Office of the Champaign County Recorder, Champaign County, Illinois; and,

WHEREAS, Thomas E. Burgin II has petitioned to have the subject tract disconnected from the City of Urbana, and which petition was filed with the City Clerk on the 9th day of May, 2016; and,

WHEREAS, as is required by law, the certificate of the County Clerk showing no taxes are due on the subject tract has also been filed with the City Clerk; and,

WHEREAS, the subject tract lies on the border of the corporate limits of the City and disconnecting such tract will not make other lands noncontiguous,

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

Section 1. That the following described tract and the adjacent right-of-way is hereby disconnected from the City of Urbana, Illinois:

Lot 102, except the west Twenty-Two (22) feet of even width thereof, of Tull's Replat Subdivision, a part of the NW ¼ of Section 10, Township 19 North, Range 9 East of the Third Principal Meridian located in Champaign

County, Illinois, as recorded July 27, 2004 as Document # 2004R23616 in the Office of the Champaign County Recorder, Champaign County, Illinois.

Said tract containing 72,668.646 S.F. (1.668 Acres), more or less, all situated in the City of Urbana, Urbana Township, Champaign County, Illinois.

Together with the following described adjacent public Right-of-Way:

Perkins Road Right-of-Way lying adjacent to the above described parcel, being 66 feet in width.

Encompassing 12,266.021 S.F. (0.282 acre), more or less, all being situated in the City of Urbana, Urbana Township, Champaign County, Illinois.

Section 2. This ordinance shall be effective on the 10th day following its passage by the Urbana City Council.

Section 3. The City Clerk is directed to record a certified copy of this Ordinance with the Recorder of Deeds of Champaign County, Illinois.

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

AYES:

NAYS:

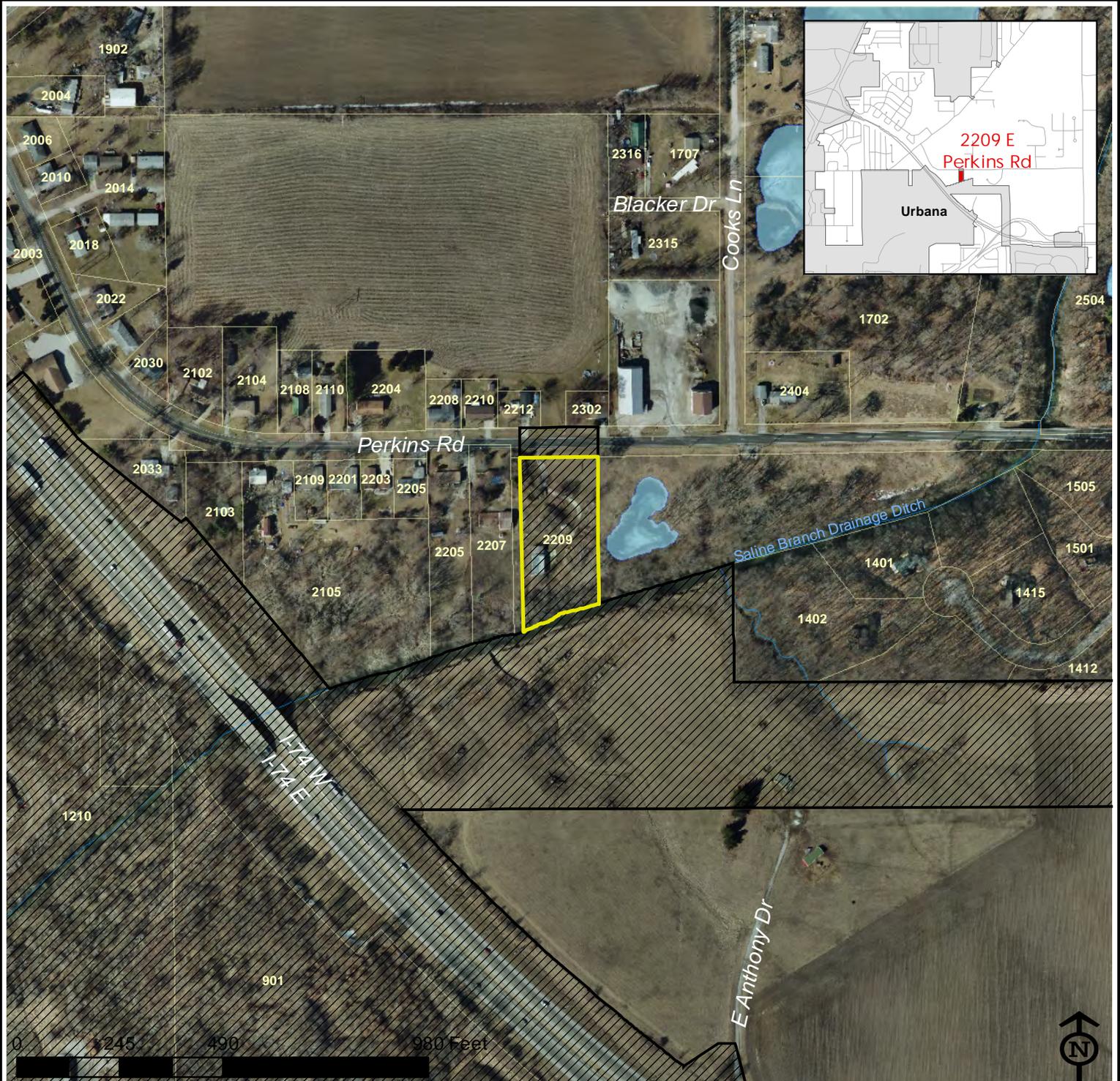
ABSTAINS:

Charles A. Smyth, City Clerk

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

Diane Wolfe Marlin, Mayor

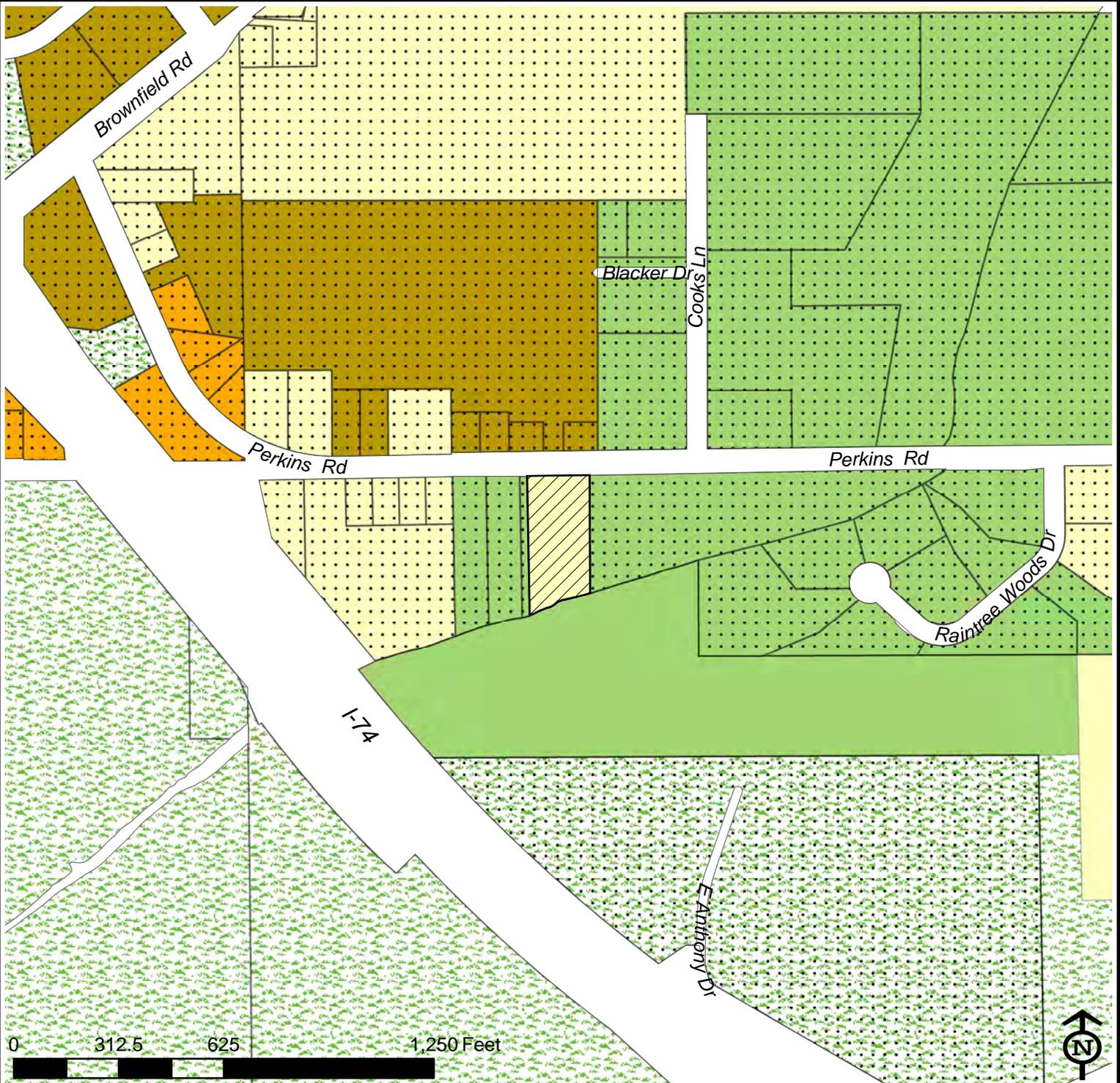
Exhibit A - Location Map



Case: 2016-A-01
Subject: Disconnection Petition
Location: 2209 E Perkins Rd
Petitioner: Tom Burgin

 Urbana City Limits
 Subject Property

Exhibit B - Zoning Map



Case: 2016-A-01
 Subject: Disconnection Petition
 Location: 2209 E Perkins Rd
 Petitioner: Tom Burgin

-  Subject Property
-  County Parcels
-  AG
-  CR/CRE
-  R1
-  R3
-  R4

Map #2

Northeast Urbana / Champaign County

Future Olympian Drive
Further study to determine exact location and design east of Cunningham Avenue.

Agricultural

This area shown in detail on Map #1

Improve to Airport Road necessary as area develops

Long Term needs: School, Park

Approx. City Limits

Residential Expansion Opportunity

Sewers Available

Residential

Somerset Subdivision (developing)

Landis Farms Sub

Regional Business

Approx. City Limits

Future N/S Conn

Brownfield Road

Rural Residential

Preserve Natural Amenities with limited conservation residential development

Outside UCSD Service Area

Preserve Significant Vegetation

Trail Opportunity

Saline Branch

Perkins Road

Develop strategies to protect significant wooded areas from development

Perkins Road

This area shown in detail on Map #5

Location of 2209 E. Perkins Rd.

High Cross Road Corridor Study Area:

to determine transportation needs of High Cross Road. Goals to provide better access and preserve natural features. 2005

Approx. ETJ Boundary

Institutional

U of I Brownfield Woods Nat. Res. Research

Cottonwood Road

St. Joseph School District

U of I Trelease Woods & Prairie

U of I Phillips Tract

Improve interstate interchange access at High Cross Road, Cottonwood Road or 1800E to serve growth south of the interstate. Future study shall take into consideration the intent of the city in its Comprehensive Plan that the sector north of I-74 and east of Brownfield Road as shown on Map #2 be "Rural Residential" and the city should protect this neighborhood as an option that is particularly appropriate in this terrain and only after such consideration will determine an appropriate location.

This area shown in detail on Map #7

Approx. City Limits

St. Joseph School District



Petition for Disconnection

Annexation

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 5/9/2016 Annexation Case No. 2016-A-01

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Thomas E Burgin II Phone: 217-367-4357
 Address (street/city/state/zip code): 8 Shuman Cir U
 Email Address: teburgin@yahoo.com
 Property Interest of Applicant(s) (Owner, Contract Buyer, etc.): owner

2. OWNER INFORMATION

Name of Owner(s): Thomas E Burgin II Phone: 217-367-4357
 Address (street/city/state/zip code): 8 Shuman Cir U
 Email Address:

Is this property owned by a Land Trust? Yes No
 If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: 2209 Perkins rd Urbana
 PIN # of Location: 91-21-10-101-021
 Lot Size: 1.8 acre
 Current Zoning Designation: R-1
 Current Land Use (vacant, residence, grocery, factory, etc): vacant land
 Legal Description: Lot 102 of Tullis Replat Subdivision, as per Plat recorded July 27, 2004 as Document Number 2004R 23616, And Also except that part dedicated to the people of Urbana Township for Public road purposes in a Dedication of Right of way recorded December 22, 2009 as Document Number 2009R 35816, in Champaign Co, IL.

To the City Council of the City of Urbana

Champaign County, Illinois

The Applicant, Thomas E Burgin II: respectfully states under oath:

That I, Thomas E Burgin II (applicant), am either the sole owner or am authorized by the owner(s) of record of the following legally described land (hereinafter sometimes referred to as the "Tract"), except any public right-of-way property wit: (Insert Legal Description)

Lot 102 of Tull's Replat Subdivision, as per Plat recorded July 27, 2004 as Document Number 2004R 23616, AND ALSO EXCEPT that part dedicated to the People of Urbana Township for public road purposes in a Dedication of Right of Way recorded December 22, 2009, as Document Number 2009R 35816, in Champaign County, Illinois.
PIN - 91-21-10-101-021, 30-21-10-101-020
Common address: 2209 E. Perkins Road, Urbana, Illinois

All situated in Champaign County, Illinois.

Together with the following described adjacent public right-of-way which is by operation of the law, automatically annexed with the adoption of an Annexation Ordinance pertaining to this parcel:

Lot 102 of Tull's Replat Subdivision, as per Plat recorded July 27, 2004 as Document Number 2004R 23616, AND ALSO EXCEPT that part dedicated to the People of Urbana Township for public road purposes in a Dedication of Right of Way recorded December 22, 2009, as Document Number 2009R 35816, in Champaign County, Illinois.
PIN - 91-21-10-101-021, 30-21-10-101-020
Common address: 2209 E. Perkins Road, Urbana, Illinois

Also known for reference as 2209 Perkins Rd Urbana, Illinois,
(street address)

having permanent identification number (PIN) 91-21-10-101-021.

Said territory is upon the border but within the boundary of the City of Urbana, Illinois.

There are no electors residing in the Tract. [or if there are electors] at least fifty-one percent (51%) of all electors residing in said Tract have signed this petition.

APPLICANT(S) RESPECTFULLY REQUESTS:

1. That the above described Tract(s) be disconnected from the City of Urbana by Ordinance of the Mayor and City Council of the City of Urbana, pursuant to Article III, Chapter 18 of the Urbana City Code.
2. That said Tract be disconnected in accordance with the terms of the disconnection agreement passed by the City Council on _____, 20 _____ as Ordinance No. _____ and approved by the Mayor of the City of Urbana.

NOTE: *All property owners must sign this annexation petition. In the case of corporate ownership, the person(s) signing must be authorized to do so by the corporation board.*

Dated this 5th day of May, 20 16

OWNER(S):

By: Thomas E Dupin II

By: _____

By: _____

By: _____

Subscribed and sworn to before me this 5th day of May, 20 16.

George G Bryan

Notary Public



My Commission Expires: _____ day of _____, 20 _____.

All of the property annexed by City of Urbana Ordinance Number 2010-01-005, dated February 1, 2010 and recorded as Document Number 2010R13552 in the Office of the Recorder, Champaign County, Illinois, being described as;

A part of the Northwest Quarter of Section 10, Township 19 North, Range 9 East of the Third Principal Meridian, Urbana Township, Champaign County, Illinois, being more particularly described as follows:

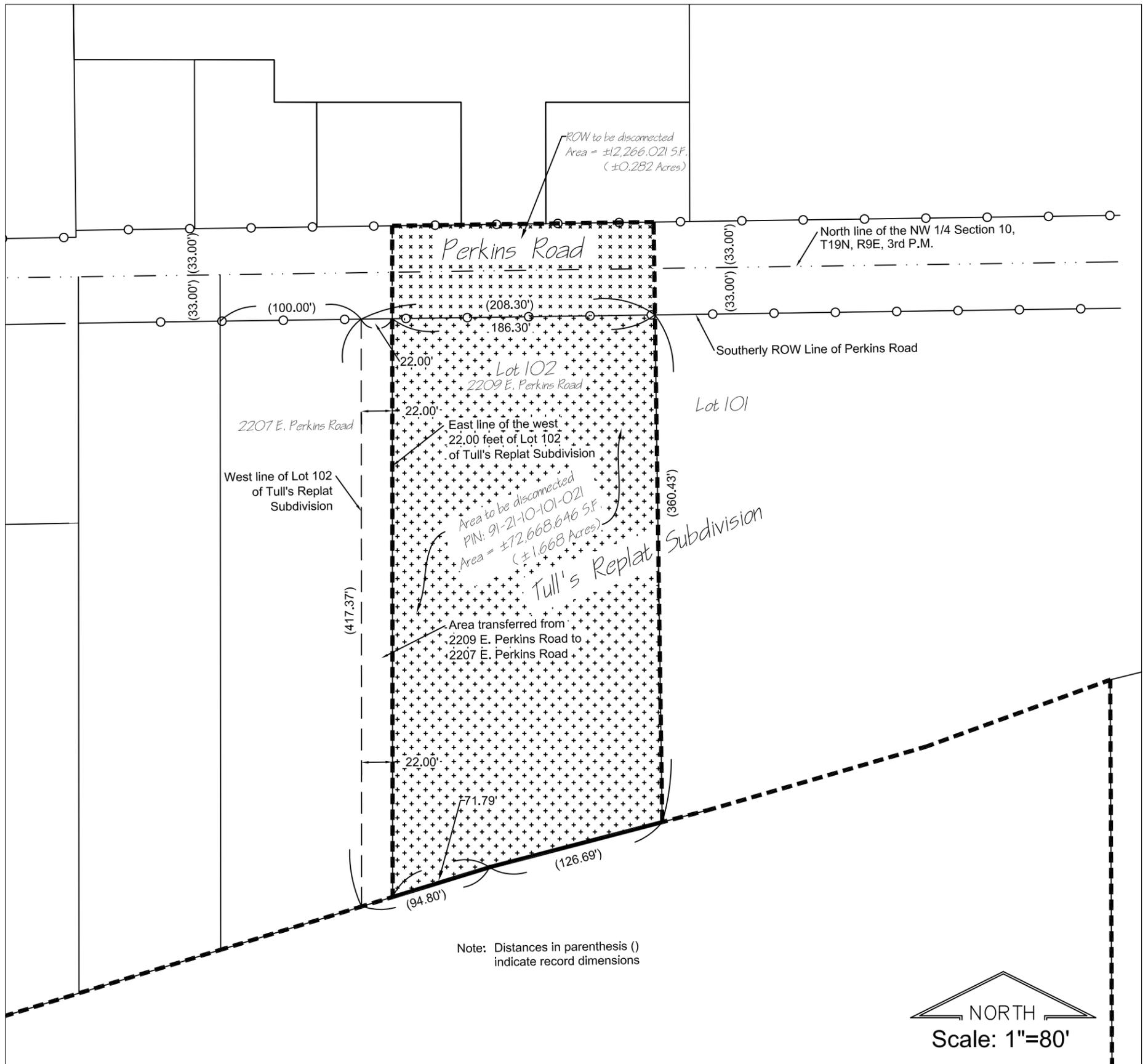
Lot 102, except the west Twenty-Two (22) feet of even width thereof, of Tull's Replat Subdivision, a part of the NW 1/4 of Section 10, Township 19 North, Range 9 East of the Third Principal Meridian located in Champaign County, Illinois, as recorded July 27, 2004 as Document # 2004R23616 in the Office of the Champaign County Recorder, Champaign County, Illinois.

Said tract containing 72,668.646 S.F. (1.668 Acres), more or less, all situated in the City of Urbana, Urbana Township, Champaign County, Illinois.

Together with the following described adjacent public Right-of-Way:

Perkins Road Right-of-Way lying adjacent to the above described parcel, being 66 feet in width.

Encompassing 12,266.021 S.F. (0.282 acre), more or less, all being situated in the City of Urbana, Urbana Township, Champaign County, Illinois.



**MAP SHOWING AREA
DISCONNECTED BY CITY
ORDINANCE #2016-XX-XXX
CITY OF URBANA, ILLINOIS
CHAMPAIGN COUNTY
DATE: XXXX XX, 2016**

AREA OF DISCONNECTION	
EXISTING CITY LIMITS	
NEW CITY LIMITS	
RIGHT-OF-WAY	

**ENGINEERING
DIVISION**



CITY ENGINEER/PUBLIC WORKS DIRECTOR

CAD: B.W.F. 06/20/2016
CHECKED: W.R.G. 06/22/2016

Exhibit F - Ordinance Approving Annexation Agreement

Passed: December 21, 2009
Signed: December 23, 2009

ORDINANCE NO. 2009-12-128

**AN ORDINANCE APPROVING AND AUTHORIZING
THE EXECUTION OF AN ANNEXATION AGREEMENT**

(2209 E. Perkins Road / James E. Tull Sr.)

WHEREAS, an Annexation Agreement between the City of Urbana, Illinois, James E. Tull Sr., and Scott Plunk 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 1.6 acres located at 2209 East Perkins Road and said tract is legally described as follows:

Lot 102, except the west Twenty-Two (22) feet of even width thereof, of Tull's Replat Subdivision, a part of the NW ¼ of Section 10, Township 19 North of the Third Principal Meridian located in Champaign County, Illinois, as recorded July 27, 2004 as Document #2004R23616 in the Office of the Champaign County Recorder. Champaign County, Illinois.

WHEREAS, The City Clerk of Urbana, Illinois, duly published notice on the 5th day of December, 2009 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 21st day of December, 2009, 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

Exhibit F - Ordinance Approving Annexation Agreement

Urbana Plan Commission on the 10th day of December, 2009, to consider the proposed Annexation Agreement and the rezoning from Champaign County CR, Conservation-Recreation to the City R-1, Single-Family Residential Zoning District upon annexation in Plan Case Nos. 2009-A-07 and 2120-M-09; and

WHEREAS, by a vote of five ayes to one nay, the Urbana Plan Commission voted to forward the proposed Annexation Agreement and rezoning from Champaign County CR, Conservation-Recreation to the City R-1, Single-Family Residential Zoning District upon annexation in Plan Case Nos. 2009-A-07 and 2120-M-09 to the Urbana City Council with a recommendation for approval; 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 has determined that the proposed rezoning contained within the Annexation Agreement is in conformance with the LaSalle Criteria; 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, James E. Tull Sr., and Scott Plunk, a copy of which is attached and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the major variance contained within said Annexation Agreement, is hereby approved to allow for the construction of a combination residence and accessory storage building in which the accessory storage use

Exhibit F - Ordinance Approving Annexation Agreement

is larger in area than the principal residential use, subject to the conditions required in the Agreement.

Section 3. 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 4. 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.

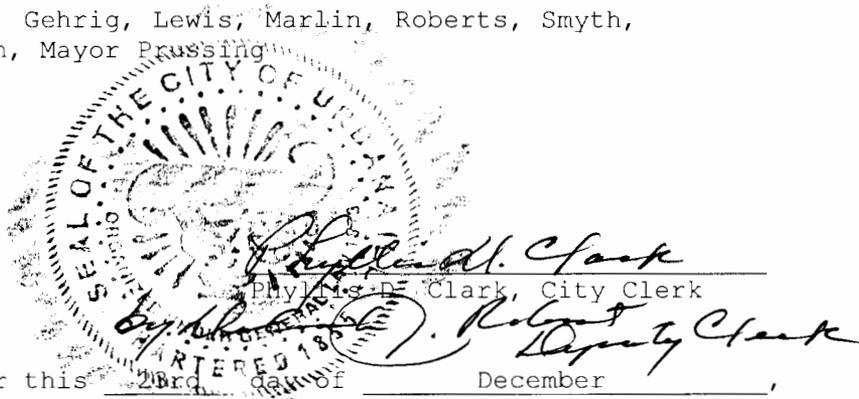
This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of two-thirds of the members of the Corporate Authorities of the City of Urbana, Illinois, then holding office, at a regular meeting of said Council.

PASSED by the City Council this 21st day of December, 2009.

AYES: Bowersox, Gehrig, Lewis, Marlin, Roberts, Smyth, Stevenson, Mayor Prussing

NAYS:

ABSTAINS:



APPROVED by the Mayor this 21st day of December,

2009.

Laurel Lunt Prussing, Mayor

Annexation Agreement

DEC 21 2009

(James E. Tull Sr.)

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 **James E. Tull Sr.** (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, James E. Tull Sr. is the Owner of record of a certain parcel of real estate located at 2209 East Perkins Road, the legal description of which real estate is set forth in Exhibit A attached hereto and referenced herein as Tract "A", or "the tract"; and

WHEREAS, Scott Plunk has agreed to purchase the tract if the tract is subject to the terms and conditions set forth in this annexation agreement and James E. Tull Sr., as owner is agreeable to accommodate such by signing as Owner, provided it is contingent upon finalization of the sale of the tract as further set forth in Article III, Section 6 below; 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 Champaign County CR, Conservation – Recreation 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 under R1, Single-Family Residential zoning 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 effective date 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.

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 CR, Conservation-Recreation to City R-1, Single-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. Accessory Storage Area Variance: It is understood and agreed that the following provisions are agreed to by the Owner because Scott Plunk wants them in the agreement and he anticipates that by assignment of the agreement to him after he becomes owner of the tract he will benefit thereby. Thus, the Owner, on his behalf, agrees to the following conditions of a Variance granted by Article II Section 3 of this Agreement, which

will allow the construction of a combination residence and accessory storage building in which the accessory storage use is larger in area than the principal residential use.

1. The combined area of the residential/storage building shall not exceed 4,032 square feet.
2. The storage area shall only be used for non-commercial uses, including the storage of vehicles, equipment, and materials which are the property of the Owner.
3. No equipment shall be stored outside of the building.

Section 5. Land Uses. The Owner agrees that the uses of the tract shall be limited to those allowed within Urbana's R1, Single-Family Residential Zoning District and shall not operate any commercial use on the tract.

Section 6. Building and Zoning Code Compliance. The Owner agrees to cause all new development, construction, remodeling or building additions on said tract to be in conformance with all applicable City of Urbana codes and regulations including building, zoning and subdivision codes.

Section 7. Sewer Connection. The Owner agrees to connect to the Urbana-Champaign Sanitary District public sewer upon the failure of the existing septic system on the property. The Owner agrees not to repair or replace the existing septic system upon failure.

Section 8. Demolition of Structures. The Owner agrees to demolish the existing house, garage, and accessory structure on the tract within 365 days of the effective date of this agreement.

Section 9. 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 tract 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-1, Single-Family Residential, 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. 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. Accessory Storage Area Variance: The Corporate Authorities agree with this annexation agreement to grant a Variance to allow the Owner to construct a combination single-family home and storage building in which the accessory storage use is larger in area than the principal residential use. The total area of this structure shall not exceed 4,032 square feet. The Corporate Authorities further agree that the granting of this variance is consistent with the following criteria identified in Section XI-3 of the Urbana Zoning Ordinance, in that the variance:

- a. will not alter the essential character of the neighborhood;
- b. will not cause a nuisance to adjacent property;
- c. represents, generally, the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.

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

ARTICLE III: GENERAL PROVISIONS

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

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

Section 2. Covenant running with the land. The terms of this Agreement constitute a covenant running with the land for the life of this Agreement unless specific terms are expressly made binding beyond the life of this Agreement. Furthermore, the terms herein are hereby expressly made binding upon all heirs, grantees, lessees, executors, assigns and successors in interest of the Owner as to all or any part of the 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 no party will take 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 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. It is understood and agreed that James E. Tull Sr., present owner of the tract, has signed this agreement as a condition of a pending sale of the tract

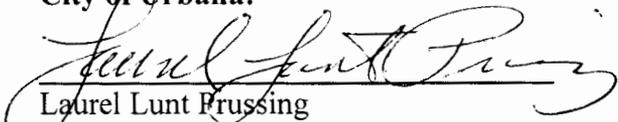
to Scott Plunk, and as such, this agreement shall become effective and binding only upon the recording of a deed in the office of the Champaign County Recorder, on or before the 1st day of July, 2010, conveying the title of the tract to Scott Plunk. If such deed is not recorded by such date, this agreement shall become null and void.

Section 7. Assignment and Recording. This agreement may be assigned by the Owner to Scott Plunk without prior approval of the Corporate Authorities. If such deed conveying the tract by the Owner to Scott Plunk is recorded with the office of the Champaign County Recorder, the Corporate Authorities shall record a certified copy of this agreement.

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

12/21/09

Date

Owner:



James E. Tull Sr.

12/18/09

Date

ATTEST:

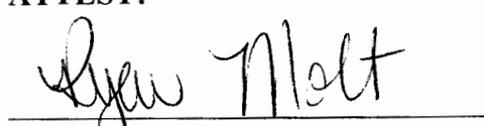


Phyllis D. Clark
City Clerk

December 22, 2009

Date

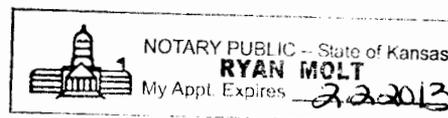
ATTEST:



Notary Public

12/18/09

Date



Purchaser:

Exhibit F - Ordinance Approving Annexation Agreement

I certify that I have read this Agreement and approve of it; I will accept assignment of this Annexation Agreement to me by James E. Tull, Sr. after the deed conveying the said tract to me is recorded in the Champaign County (Illinois) Recorder's Office.

Scott Plunk
Scott Plunk

12-14-09
Date

ATTEST:

[Signature]
Notary Public

12/14/09
Date

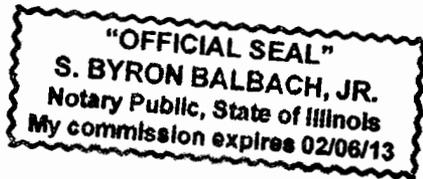


Exhibit A

Legal Description

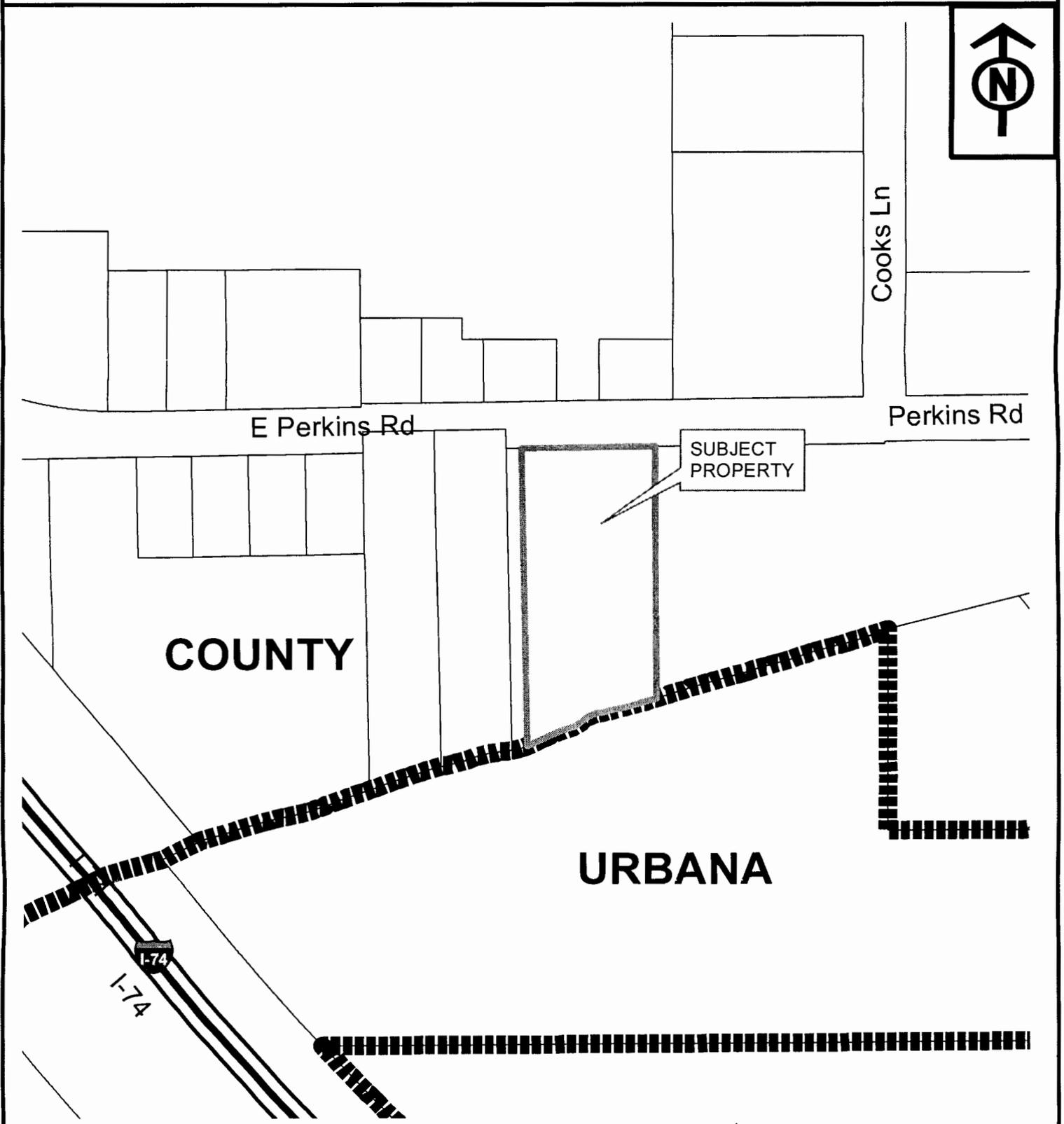
Lot 102, except the west Twenty-Two (22) feet thereof, of Tull's Replat Subdivision, a part of the NW ¼ of Section 10, Township 19 North of the Third Principal Meridian located in Champaign County, Illinois, as recorded as Document #2004R23616 in the Office of the Champaign County Recorder, Champaign County, Illinois.

PIN:

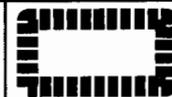
Commonly known as 2209 East Perkins Road, Urbana.

Exhibit B: Location Map

Exhibit F - Ordinance Approving Annexation Agreement



Plan Case: 2009-A-07
Description: Scott Plunk
Annexation Agreement
Location: 2209 E Perkins Road



Urbana

COPY

ORDINANCE NO. 2010-01-005

AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE CITY OF URBANA
(2209 East Perkins Road / Scott Plunk)

WHEREAS, the hereinafter described territory is situated in unincorporated territory adjacent to and contiguous to the City of Urbana, Illinois, and is part of the Carroll Fire Protection District, and includes certain territory within Urbana Township, and Notice was given to the Trustees of said Fire Protection District, the Board of Township Trustees, and the Township Commissioner of Highways that this Ordinance would be voted upon, and the Affidavit of mailing such Notices was duly recorded with the Recorder of Deeds of Champaign County, Illinois; and

WHEREAS, a written petition signed by all of the Owners of Record and at least fifty-one percent (51%) of the electors, of all land within such territory, has been filed with the City Clerk of the City of Urbana, Illinois, requesting annexation thereof to the City of Urbana; and

WHEREAS, the property is subject to an adopted annexation agreement between James Tull Sr., Scott Plunk, and the City of Urbana adopted at the regular meeting of the Urbana City Council on December 21, 2009 under Ordinance Number 2009-12-128; and

WHEREAS, the territory to be annexed by this Ordinance is presently located within Champaign County's CR, Conservation-Recreation zoning district and upon annexation will be classified City R-1, Single Family Residential Zoning District in accordance with the provisions of the annexation agreement and the Urbana Zoning Ordinance; and

WHEREAS, the annexation agreement for the territory approved a variance to allow for the construction of a combination residence and accessory storage building in which the accessory storage use is larger in area than

the principal residential use, subject to the conditions required in the agreement; and

WHEREAS, it has been determined that said petition complies with all requirements of the law therefore; and

WHEREAS, the majority of the Members of the Council are of the opinion that it would be for the best interests of the people of the City of Urbana, Illinois, that said territory be annexed to and made a part of the said City.

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

Section 1. That the following described real estate is hereby annexed to the City of Urbana, viz.:

Lot 102, except the west Twenty-Two (22) feet thereof, of Tull's Replat Subdivision, a part of the NW $\frac{1}{4}$ of Section 10, Township 19 North, Range 9 East of the Third Principal Meridian located in Champaign County, Illinois, as recorded as Document #2004R23616 in the Office of the Champaign County Recorder, Champaign County, Illinois.

All situated in Urbana Township, Champaign County, Illinois, and containing 1.668 Acres, more or less.

Together with the following described public right-of-way, which by operation of the law is automatically annexed following the adoption of an Annexation Ordinance pertaining to this tract:

All of the Perkins Road Right-of-Way, lying adjacent to the above described tract, being 66 feet in width. All situated in Champaign County, Illinois and containing 0.282 Acres, more or less.

commonly known for reference as 2209 E. Perkins Road, Urbana, Illinois, be and the same is hereby annexed to the City of Urbana, Illinois. The above-described parcel, prior to annexation, having parcel index numbers 30-21-10-101-019 and a portion of 30-21-10-101-018.

Section 2. That the City Clerk be authorized and directed to record a certified copy of this Ordinance together with an accurate map of the territory herein above described in the Recorder's Office of Champaign

COPY

County, Illinois in the Office of the County Clerk and County Election Authority of Champaign County, Illinois.

Section 3. The Zoning Ordinance of the City of Urbana, Illinois, and the Zoning Map of Urbana, Illinois, are hereby amended to classify the real property herein annexed as R-1, Single Family Residential upon annexation.

Section 4. The territory annexed herein is assigned to City of Urbana Ward 5.

Section 5. To avoid uncertainty regarding public safety responsibilities concerning the property herein annexed, this Ordinance shall take effect at noon on the 11th day of February, 2010 following its passage by the Urbana City Council.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 1st day of February, 2010, A.D.

PASSED by the City Council this 1st day of February, 2010.

AYES: Bowersox, Gehrig, Lewis, Marlin, Roberts, Smyth, Stevenson, Mayor Prussing

NAYS:

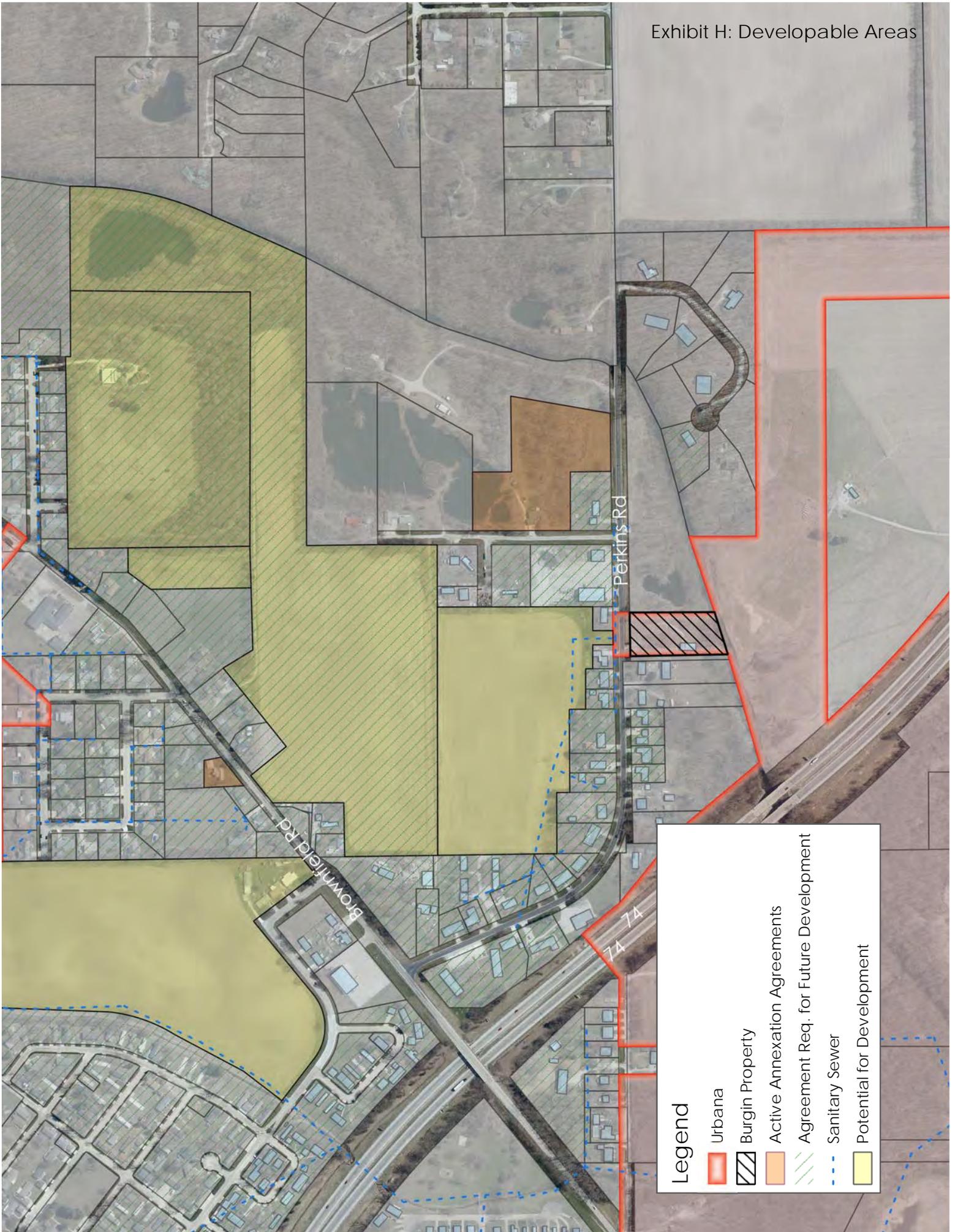
ABSTAINS:



[Signature]
D. Clark, City Clerk
[Signature]
Deputy Clerk

APPROVED by the Mayor this 1st day of February, 2010.

[Signature]
Laurel Lunt Prussing, Mayor



Legend

- Urbana
- Burgin Property
- Active Annexation Agreements
- Agreement Req. for Future Development
- Sanitary Sewer
- Potential for Development