



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning and Economic Development Division

m e m o r a n d u m

TO: Bruce K. Walden, CAO

FROM: Rob Kowalski, AICP, Senior Planner

DATE: June 28, 2001

SUBJECT: An Amendment to an Annexation Agreement between the City of Urbana and Community Homes, Inc.; Scott Weller Development; Scott E. Weller; and Scott E. Weller and Catherine Weller approved by Ordinance No 9192-92 on May 21, 1992. (Plan Case 1784-A-01)

Preliminary Plat of Savannah Green Subdivision with requested waivers. (Plan Case 1784-S-01)

Introduction

The St. Agnes Company proposes to build a 296-lot subdivision on 62-acres at the terminus of Smith Road and Florida Avenue extended in eastern Urbana. The proposal consists of an alternative design style to standard subdivision development and incorporates many aspects of “neo-traditional” neighborhood design. In order to develop the subdivision, the developer needs a number of variances from the requirements of the Urbana Zoning Ordinance and a variety of waivers from the Urbana Subdivision and Land Development Code. To accommodate the request for variances, an amendment to the original annexation agreement is proposed. The necessary waivers are requested in conjunction with the submitted Preliminary Subdivision Plat. Although the requests for both the amendment to the annexation agreement and Preliminary Subdivision Plat are presented in one staff report, they represent two separate requests and will require separate actions.

Background

There are two tracts of property associated with this request. The St. Agnes Company has an option to purchase the southern 57 acres of property from Scott Weller and the northern 5 acres from the Little River Company. The five acre tract is zoned R-4, Medium Density Multiple Family Residential and is proposed to be downzoned to R-2, Single Family Residential to best suit the proposed use. The 57 acre parcel is currently zoned R-2. Both parcels were subject to a 1992 annexation agreement between Scott Weller and the City. At that time, the property was annexed into the city limits without any specific conditions or development proposals. In order

to develop Savannah Green, the St. Agnes Company requires a number of variances from zoning ordinance requirements for lot size, lot width and some setbacks. Usually, variances are requested from the Urbana Zoning Board of Appeals on an individual lot basis. The Board then considers each case based on the specific circumstances associated with the lot. Since the request is to allow variances on all 296 lots prior to subdivision and development, a separate hearing for each lot would be unreasonable. To avoid this process, a streamlined approach of amending the original annexation agreement and including the provisions for the variances is proposed. This still allows the Plan Commission and City Council to act on the requests through the process of a public hearing. Further, Illinois State Statute allows municipalities to consider other development provisions through annexation agreements that would not normally be allowed under a standard rezoning, variance or preliminary plat action.

Along with the request for an amendment to the original annexation agreement, the developer also requests approval of a Preliminary Subdivision Plat for the development along with requested waivers. The waiver requests relate primarily to street width, right-of-way widths, turning radius, and curbs.

The St. Agnes Company along with their engineer gave an informational presentation to the Urbana Plan Commission on June 7, 2001 to gain initial reaction to the proposal. A formal public hearing was then held before the Plan Commission on June 21, 2001 where public testimony was received. The Plan Commission voted on both requests on June 21, 2001 and recommended to the Urbana City Council that both requests be approved. The following section offers an overview of that meeting along with any other outstanding issues. Subsequent to Plan Commission consideration, the City Council considered the requests at its Committee Meeting of the Whole on June 25, 2001. A number of communications and supporting documents were presented at the June 21, 2001 and June 25, 2001 meetings. A listing of these materials is provided at the end of this memorandum.

Additional background into the amended annexation agreement and Preliminary Subdivision Plat is provided in the Plan Commission Memorandum dated June 14, 2001.

Issues and Discussion

Plan Commission Hearing; June 21, 2001

The Urbana Plan Commission conducted a lengthy public hearing to gather public testimony and ultimately consider the two requests. The Plan Commission voted 7-1 to recommend approval of the amendment to the annexation agreement and also voted 6-2 to recommend approval of the Preliminary Subdivision Plat along with most of the requested waivers. The major issues discussed were as follows:

Open Space

The developer proposes a 1.5 acre park in the center of the development. There are currently no requirements for park land dedication under Urbana codes. Rather, the Urbana Park District provides park land on a districtwide basis and levies property tax to do so. The Park District provides 11.5 acres of park land per 1,000 residents which exceeds the National Recreation and

Park Association standard range of 6.25 to 10.50 acres of developed open space per 1,000 residents.

Nevertheless, since the developer proposes smaller lot sizes than allowed by code, it was recognized that some open space would be important to the development. The issue is whether or not the size of the park is adequate in relation to the number of new homes proposed. The intent of the proposed park is to be more of a “tot-lot” which will also contain lighting, paved paths and benches. It is intended to primarily serve the immediate neighborhood and not necessarily east Urbana as a whole. This development is fortunate to be located between two major parks in Lohmann Park and Prairie Park. Lohmann Park is located less than one-half mile to the southwest of the site while Prairie Park is located roughly the same distance to the northwest of the site across from Washington Street. Both parks offer significant facilities such as ballfields, basketball courts and playground equipment.

City staff as well as the developer discussed the possibility of the Urbana Park District accepting the proposed park into their system. At this time, the Park District has declined this opportunity. While they are supportive of the park in general, their recent trend has been to acquire and develop larger parks with more facilities. This is a national trend of Park Districts in an effort to create parks that are more cost effective to maintain and offer more amenities to a larger segment of the community. The developer is proposing a neighborhood park that would most likely only be used by the residents of the development. Nevertheless, staff feels that the existing park facilities in the area along with the proposed park in Savannah Green will provide adequate park space for the new residents.

There was also discussion about circulation around the proposed park. The developer proposes to modify the circulation plan so that the alleys on the north and south sides of the park are not continuous and provide for exit only. This would prevent the alleys from providing primary access to the park.

Crime

A number of adjoining residents were concerned about the possibility of the increase of crime due to the subdivision. In particular, there were concerns about current activities at the Rainbow View and Prairie Green Apartments and what impact this development would have on that situation. Currently, Smith Road dead-ends into the site and the only access to the apartments is off of Washington Street. Savannah Green will continue Smith Road south to Florida Avenue offering an additional ingress and egress point for residents of the apartments. The developer also noted that the presence of residents and homeowners on the site will help to deter criminal activities.

There were also general concerns about the safety of the alleys. The proposed agreement would require the developer to install lighting on all garages that would turn on at dusk. This was also a request of the Urbana Police Department.

Schools

Considering the type of development proposed, Savannah Green is likely to generate a number of new children for the Urbana School District. Currently, school boundary lines split the site in

half. Children in the northern half of the development would attend Prairie School while children in the southern half would attend Thomas Paine School. Staff has met with the Urbana School District and reviewed the proposed development with them. At this point, the School District is aware of the potential increase of students and is ready to revisit the current boundary lines to determine if adjustments are needed depending on the availability of services at the two facilities. While adjustments to school boundaries may or may not be needed in the future, it has been determined that Savannah Green will not be large enough to require an additional school to be built.

Buffer to the West

A number of residents on Greenridge Drive west of the site spoke at the hearing with concern about the impact of an alley immediately east of their backyards. To help mitigate this impact, staff and the Plan Commission have recommended some kind of screen between the alley and the neighbors. Although a continuous six to eight foot high stockade fence was originally considered by staff and the Plan Commission and was included in a previous draft of the Amendment to the Annexation Agreement, subsequent discussions with residents and with the developer have led staff to believe that a variety of fence and landscaping would be much more aesthetically pleasing and natural in appearance.

The development plan shows no more than five feet between the edge of the alley and the property line. While this may be enough room to install a fence, it is probably not enough room to install any kind of evergreen landscape barrier that will grow to a height to effectively shield the alley from the neighbors. For this reason, staff proposes that the developer be required to meet with the affected neighbors to discuss their desires and agree to supply either a fence or landscape screen depending on the wishes of each neighbor. It is further recommended that the improvement be provided on the neighbors lot to ensure that landscaping can grow and that it can be maintained as needed by the ones most affected. If the landscaping/fencing is provided on the development site, it will have to be owned and maintained by the Homeowner's Association which may or may not maintain it to the satisfaction of those most affected. The details of the type of landscaping is proposed to be further determined between the developer and the City Arborist. These screening/fencing provisions are set forth in the attached revised version of the Draft Amendment to the Annexation Agreement.

Since the Plan Commission meeting, some additional issues have been raised as follows:

Mid-block curb-cuts

The developer has agreed to provide mid-block curb-cuts as discussed at the June 25, 2001 Committee of the Whole Meeting. There are approximately 28-30 locations where these walks will be provided. Generally, these will be required in the middle of each block.

Street Lights

The developer had initially proposed to install decorative street lighting within the development. Currently, Urbana does not require any street lighting for subdivision development. Since the Plan Commission meeting, Public Works staff have further reviewed the proposed lights and determined that the type of light along with the spacing would be inadequate. Since the City would assume ownership and maintenance of the lights, Public Works has requested that the

developer install the same lights as recently installed in the West Urbana area. At this point, the developer is unwilling to accommodate this upgrade due to the substantial cost difference. Staff will continue to work on a resolution to get street lights installed. In the meantime, language in the annexation agreement requiring the developer to install the lights as originally displayed in the information booklet has been eliminated.

Variations and Waivers

The attached amended annexation agreement along with the Plan Commission staff report from June 14, 2001 describe in detail the requested variations and waivers. The Urbana Plan Commission has recommended approval of all of the requested variations and waivers with the following exceptions:

Width of Smith Road

Smith Road is a designated collector level roadway by the Comprehensive Plan. The Subdivision and Land Development Code requires new collector level streets to be a minimum of 31-feet in width. The developer has requested a waiver of this requirement to allow Smith Road to be 25-feet in width. The intent of the waiver is to slow traffic and create a more residential feel to the road since many homes will be fronting on it. Staff had recommended against this waiver due to the function of Smith Road which will serve as a major connection from Washington Street south to Stone Creek Boulevard and essentially Windsor Road. Smith Road may also someday be extended north to Main Street which would make it a primary route from I-74 and University Avenue down to this development. The Plan Commission recommended against this waiver request as well.

Curb on Smith Road

Since Smith Road will be a collector level street, a barrier curb is required. The developer is requesting that a six-inch "mountable" curb be allowed. At the Plan Commission meeting, the developer submitted a detail of the proposed curb. The Plan Commission recommended that any proposed non-barrier curb along Smith Road be allowed only with the approval of the Urbana City Engineer. Urbana Public Works staff has subsequently reviewed this detail and has recommended approval of the granting of this waiver, subject to compliance with the submitted detail.

Street Corner Radius

The developer has requested a street corner radius of 15-feet instead of the required 25 feet. Again, the intent is to slow down the traffic as cars turn onto intersecting streets. In order to effectively allow for the movement of service and emergency vehicles, staff and the Plan Commission recommended a waiver of only 20 feet.

Summary of Findings

For Plan Case 1784-A-01:

1. The amendment to the 1992 annexation agreement with the provisions for certain variations related to lot size, width and setbacks are justified in order to allow a development with a

alternative design including some of the techniques of “Neo-traditional” development which is considered to be a progressive subdivision design and one that will benefit the city in general.

2. The amendment to the annexation agreement obligates the developer to provide certain roadway and infrastructure improvements which will help the city complete a desired network of roads including the extension of Florida Avenue to the east and Smith Road to the south.
3. The rezoning of Tract “A” to R-2, Single Family Residential would help meet a number of the goals, objectives, and policies of the Urbana Comprehensive Plan and would be consistent with existing and planned land uses in the vicinity.
4. The proposed zoning designation appears to generally meet the LaSalle Case criteria.
5. The provision for either fencing or landscape improvements between the site and neighbors to the west will help mitigate any undesirable impacts from the development.

For Plan Case 1784-S-01:

1. The proposed Preliminary Subdivision Plat would be consistent with the Comprehensive Plan land use and roadway designations for the site.
2. The proposed Preliminary Subdivision Plat would be consistent with existing zoning designations for the site.
3. The proposed Preliminary Subdivision Plat will allow for the continuation of necessary infrastructure such as Florida Avenue, Country Squire Drive and Rainbow View Drive.
4. The proposed Preliminary Subdivision Plat will involve stormwater drainage improvements that would correct existing drainage problems in the area.
5. With the exception of the requested waivers for right-of-way width, street pavement width, turning radius and curb design, the Preliminary Subdivision Plat is consistent with the requirements of the Urbana Subdivision and Land Development Code.
6. The requested waivers are needed in order to create a development that is consistent with the principles of “neo-traditional” development.
7. The requested waivers will not be harmful to other properties and would not negatively impact the public health, safety and welfare of the community nor impede the attainment of goals and objectives contained in the Comprehensive Plan.
8. The width of Smith Road needs to meet the requirements of the Urbana Subdivision and Land Development Code in order to effectively allow for the function of a collector level street.

9. A curb radius of 20 feet is needed in order to effectively allow for the maneuvering of emergency vehicles.

Options

The Urbana City Council has the following options. In Plan Case 1784-A-01 and 1784-S-01, the Council may:

- a. Approve the proposed Amendment to the Annexation Agreement, including the zoning designation of R-2, Single Family Residential for Tract "A" and approve the proposed Preliminary Subdivision Plat, along with the waivers as requested by the developer (i.e., Smith Road with a pavement width of 25 feet and turning radii at street corners of 15 feet).
- b. Approve the proposed Amendment to the Annexation Agreement, including the zoning designation of R-2, Single Family Residential for Tract "A" and approve the proposed Preliminary Subdivision Plat with the waivers as recommended by the Plan Commission (does not include the Smith Road pavement width waiver and would have turning radii at street corners of 20 feet).
- c. Approve the proposed Amendment to the Annexation Agreement, including the zoning designation of R-2, Single Family Residential for Tract "A" and approve the proposed Preliminary Subdivision Plat with the request waivers along with any additional conditions to be identified.
- d. Deny the proposed Amendment to the Annexation Agreement and Preliminary Subdivision Plat with the waivers.

Staff Recommendation

Based on the evidence presented in the discussion above, and considering testimony and discussion of the Urbana Plan Commission hearing, staff recommends that the Urbana City Council **approve** the requested amendment to the 1992 annexation agreement (Plan Case 1784-A-01) and **approve** the requested Preliminary Subdivision Plat (Plan Case 1784-S-01) along with all of the requested waivers except those related to the pavement width of Smith Road and the street corner radius to be 20 feet, rather than the requested 15 feet.

Information presented at the June 21, 2001 and June 25, 2001 meetings (provided previously):

Communications:

Letter from Robin Hall, Urbana Park District, to Patrick Fitzgerald, dated June 14, 2001
Letter from Nick Taylor, Re/Max Realty Associates, to Libby Tyler, dated June 21, 2001
Savannah Green Real Estate Tax Impact Statement, prepared by Patrick T. Fitzgerald
News Article and website information from LASER, Inc., submitted anonymously
ABC's official response to LASER, Inc., letter, submitted by Patrick T. Fitzgerald

E-mail communication from Helaine Silverman to Patrick Fitzgerald, dated June 24, 2001,
submitted by Mike Suhadolnik

Letter from Barbara M. Pritchard, PACE to Urbana City Council

Documents:

National Association of Home Builders and the NAHB Research Center, "Building Greener,
Building Better: The Quiet Revolution"

Savannah Green Subdivision Preliminary Plat, 9 sheets, dated 6/6/01, prepared by Farnsworth
Group.

Curb Detail, 3 sheets, submitted by Farnsworth Group

Exhibit "E", An Amendment to an Annexation Agreement between the City of Urbana and
Community Homes, Inc., etc., revised June 21, 2001

Urbana Plan Commission Preliminary Draft Minutes, June 7, 2001

Attachments: Proposed Ordinance for Plan Case 1784-A-01
 Proposed Amendment to 1992 Annexation Agreement
 Proposed Ordinance for Plan Case 1784-S-01
 June 21, 2001 Plan Commission Preliminary Draft Minutes

c: Mike Suhadolnik, St. Agnes Company
 Pat Fitzgerald, Attorney
 Don Adams, Consulting Engineer
 Vic Armstrong, Snyder/Armstrong Realty

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Prepared by:

Rob Kowalski, AICP
Senior Planner

ORDINANCE NO.2001-06-069

An Amendment to an Annexation Agreement between the City of Urbana and Community Homes, Inc.; Scott Weller Development; Scott E. Weller; and Scott E. Weller and Catherine Weller approved by Ordinance No. 9192-92 on May 21, 1992.

(To include provisions for a residential subdivision development by the St. Agnes Company called Savannah Green. Plan Case No. 1784-A-01).)

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

Section 1. That an Amended Agreement by and between the City of Urbana, Weller's Community Homes, Inc. (Owner), Little River Development (Owner), BankIllinois (Trustee), and St. Agnes Company (Developer), in the form of the copy of said Amended Agreement attached hereto 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 authorized to attest to said execution of said Amended Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this ____ day of _____, 2001.

AYES:

NAYS:

ABSTAINED:

Clerk

Phyllis D. Clark, City

APPROVED by the Mayor this _____ day of _____, 2001.

Tod Satterthwaite, Mayor

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EQUIPMENT SERVICES · OPERATIONS · PUBLIC FACILITIES**

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Revised, June 27, 2001

An Amendment to An Annexation Agreement between the City of Urbana and Community Homes, Inc.; Scott Weller Development; Scott E. Weller; and Scott E. Weller and Catherine Weller approved by Ordinance No 9192-92 on May 21, 1992.

(Between the City of Urbana, Weller's Community Homes, Inc., BankIllinois, Little River Development, and St. Agnes Company)

THIS Agreement made and entered into by and between the City of Urbana, Illinois, (herein after sometimes referred to collectively as the "Corporate Authorities" or the "City") and Weller's Community Homes, Inc., BankIllinois, and Little River Development (hereinafter referred to as the "Owners") and the St. Agnes Company (hereinafter referred to "Developer"). The effective date of this Agreement shall be as provided in Article III, Section 5.

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, Little River Development is the Owner of record of a certain parcel of real estate permanent index number 91-21-15-326-014 referenced herein as "Tract A"; and Weller's Community Homes, Inc. and BankIllinois as trustees are the Owners of record of a certain parcel of real estate permanent index number 91-21-15-376-006 referenced herein as "Tract B", the map and legal descriptions of which real estate is set forth in Exhibit "A" attached hereto; and

WHEREAS, Community Homes, Inc.; Scott Weller Development; Scott Weller; and Scott E. Weller and Catherine Weller and the City previously entered into an Annexation Agreement which was approved by Ordinance No 9192-92 on May 21, 1992 (hereinafter referred to as the "previously approved annexation agreement" and attached hereto as Exhibit "B"); and that the tracts were described in the previously approved annexation agreement as Tract III and Tract IV; and

WHEREAS, the previously approved annexation agreement annexed and zoned Tract III as R-2, Single-Family Residential and Tract IV as R-4, Medium Density Multiple Family Residential under the terms of the Urbana Zoning Ordinance; and

WHEREAS, the Owners have entered into a contract with the St. Agnes Company ("Developer") to purchase the property with the intention of developing a single-family residential subdivision as shown on the development plan layout attached as Exhibit "C"; and

WHEREAS, the Owners, Developer and City wish to amend the previously approved annexation agreement to include the terms and provisions of the proposed single-family residential subdivision development; and

WHEREAS, the attached map, labeled Exhibit "A", is a true and accurate representation of the tracts to be amended within the existing annexation agreement with the City of Urbana under the provisions of this agreement; and

WHEREAS, such amendment to the previously approved annexation agreement will ensure that the Developer will be permitted to construct a single-family residential subdivision with a unique design featuring elements of a "neo-traditional" development and that the City of Urbana will receive real estate taxes and other revenues that will enable the City to continue to enhance its tax base; and

WHEREAS, the Owners desire to have the previously approved annexation agreement amended 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(S)
AND/OR DEVELOPER

The Owner and/or Developer agrees to the following provisions:

Section 1. Ownership: The Owners represent that they are the sole record Owners of the tracts described in Exhibit "A".

Section 2. Zoning Classification: The Owners acknowledge that Tract "A" will be rezoned from City R-4, Medium Density Multiple Family Residential to City R-2, Single Family Residential upon adoption of the amendment to the previously approved annexation agreement.

Section 3. Preliminary Plan: The Owners and Developer agree to develop both Tracts in substantial conformance with the uses and layout shown in Exhibit "C".

Section 4. Development Regulations: The Owners and Developer agree to abide by all applicable development regulations existing at the time of the adoption of the amendment to the previously approved annexation agreement with the exception of those regulations listed in Article II Section 3 herein of this agreement.

Section 5. Development Provisions: The Developer agrees to the following development provisions as part of the construction of the single family residential subdivision as shown on Exhibit "C":

- a) The Developer agrees to provide street trees of at least 5-inch caliper in the right-of-way between the curb and sidewalk. One tree shall be planted per home. The street trees shall be dedicated to the City of Urbana for ownership and maintenance. The spacing and species of tree must meet the approval of the City Arborist prior to planting.
- b) The Developer agrees to create a Homeowner's Association for the development that will be responsible for maintaining any amenities and features located on private property and not accepted by the City or any other municipal authority for ownership and/or maintenance. The creation of the Homeowner's Association shall be set forth in the Owner's Certificate on the Final Plat. Homeowner Association Bylaws and Covenants shall be reviewed and approved by the City Attorney.
- c) The Developer agrees to provide a minimum of 1.5 acres of parkspace as shown on the preliminary plan labeled as Exhibit "D". The Developer further agrees to provide landscaping and other improvements as shown in detail on Exhibit "F". Should the Urbana Park District not agree to accept dedication of the parkspace into the Park District, the Homeowner's Association shall be responsible for its ownership and maintenance.
- d) The Developer agrees to provide fence and stone column detail along Florida Avenue as shown in detail on Exhibit "E". The fence and columns shall be located on private property and shall be owned and maintained by the established Homeowner's Association.
- e) The Developer agrees to construct or cause to be constructed a variety of home types and layouts including those shown on the examples in Exhibit "F". The mix of home styles shall include both one and two story models.
- f) The Developer agrees to provide or cause to be provided exterior lighting on all garages facing the alleys.
- g) The Developer agrees to meet individually with the owners of the lots adjacent to the west of proposed Lots 265 through 295 (as shown on Exhibit "C") and, dependent upon the adjacent owners' choice, shall either install a six- or eight-foot high wood privacy fence, or plant an evergreen screen, or provide no buffer treatment. The buffer shall be installed on the neighboring properties and the developer shall be responsible for coordinating and installing the chosen buffer treatment. The Developer shall coordinate with the City Arborist concerning species and type of vegetation to be installed. The Developer shall provide signed documentation to the City that the owner has been contacted regarding the selected buffer treatment.
- h) The Developer agrees to construct all Public Improvements shown on the Site Plan in Exhibit "C" and necessary for the Development, including Florida Avenue, Smith Road, Michigan Avenue and other local streets, storm sewer improvements,

stormwater detention, and other utilities, in conformance with the development standards contained in the Urbana Subdivision and Land Development Code except as waived in conjunction with approval of the Preliminary Subdivision Plat. As set forth in Article II of this Agreement, the City shall reimburse the Developer for one-half the cost of construction, engineering, and related stormwater detention of Florida Avenue.

- i) The Developer shall provide permanent delineators along the proposed alleys to assist in guiding snowplows and to protect any turfed areas or other improvements that are placed alongside the alleys.
- j) The Developer agrees to provide one mid-block curb cut in the center of each block in order to accommodate handicapped accessible access from the street to the sidewalk

Section 6. Invoices and Change Orders: The Developer shall make all payments to the construction contractor, engineer, and their respective subcontractors and subconsultants, material suppliers, etc. Developer shall invoice the City in accordance with the cost described in Article II, Section 4. Payments shall be made to the Developer within thirty (30) days after the City receives the invoices. The Developer shall provide reasonable documentation to the City regarding the actual cost of the work as costs are incurred and submit invoices based upon percentage of completion, less a five percent retainage pending final completion. Any change orders for work other than that approved per Article II, Section 4 shall first be approved by the City Engineer. Failure to do so may result in no compensation by the City for work performed. Lien waivers must be submitted prior to final payment.

Section 7. Title Interests: The Owner represents that there are no mortgages or lien holders or holders of any security interest affecting title to either Tract "A" or Tract "B".

Section 8. Disconnection: The Owner agrees and hereby stipulates that the Owner shall not take any action to disconnect either Tract "A" or Tract "B" from the City during the remaining term of this agreement.

ARTICLE II. REPRESENTATIONS AND OBLIGATIONS OF THE CORPORATE AUTHORITIES

The Corporate Authorities agree to the following provisions:

Section 1. Annexation Agreement: The Corporate Authorities agree to amend the previously approved annexation agreement of said tracts subject to the terms and conditions outlined in this Agreement, within thirty (30) days of the effective date of this Agreement per the previously submitted annexation petitions.

Section 2. Zoning Classification: The Corporate Authorities agree that Tract “A” will be rezoned from R-4, Medium Density Multiple Family Residential to R-2, Single-Family Residential upon adoption of the amendment to the previously approved annexation agreement.

Section 3. Development Regulations: The Corporate Authorities agree that all applicable development regulations will apply to said tracts, except as otherwise provided below:

- A. Lot Size. The Corporate Authorities hereby grant variances to permit residential lots to be less than the required 6,000 square feet in area. Of the 297 single-family residential lots shown on the preliminary plan (Exhibit “C”), no lots shall be less than 5,040 square feet in area. No more than 60 percent of the lots may be less than 5,600 square feet in area.
- B. Lot Width. The Corporate Authorities hereby grant variances to permit residential lots to be less than the required 60 feet in width. Of the 297 single-family residential lots shown on the preliminary plan (Exhibit “C”), no lots shall be less than 42 feet in width. No more than 60 percent of the lots may be less than 47 feet in width.
- C. Setbacks. The Corporate Authorities agree to permit the following variations for setbacks:
 - 1. Common lot-line garages. Detached garages built as accessory structures to the dwelling unit may encroach into the required side yard setback to zero inches when proposed to be built as a common-lot-line garage with the garage on the neighboring lot. Any detached garage proposed not to connect to a neighboring garage must meet the setback standards of the Urbana Zoning Ordinance.
 - 2. Side yard Setback. The side yard setback for all homes shall be five feet with the exception of any lot developed with the XL Promo Home as shown in Exhibit “F”. For these lots, a 3-foot side yard setback is permitted for the area of the dining room cantilever only. There shall be only one cantilever on each home.
 - 3. Side yard Setback along a Street. All side yard setbacks along a public street may be 10 feet.
 - 4. Average Front Yard Setback. There shall be no requirement to average the front yard setback of homes on a blockface although no structure shall be setback less than 15 feet and no greater than 25 feet.
 - 5. Chimney Encroachment. Chimneys may encroach into the required side yard by up to but no more than three feet. There shall be no requirement

to restrict the encroachment of the chimney by up to one-third of the said side yard.

D. Floor Area Ratio. Finished basements shall not count towards the floor area ratio of the lot and structure.

Section 4. Florida Avenue: The Corporate Authorities agree to pay for one-half the cost of the construction, engineering, and related stormwater detention of Florida Avenue as an urban arterial street including an eight foot wide concrete multi-use path along the south side of the Site as generally shown in Exhibit "C". The City will reimburse the Developer for engineering fees up to 15% of one-half of the related construction costs. Engineering fees shall include all surveying, design, testing services, plans and specifications, and full time construction inspection, engineering and staking for Florida Avenue. The Developer shall provide unit prices for work to be performed. The City agrees to reimburse up to said unit prices for the Florida Avenue improvements in the Fairway Estates Subdivision. The City Engineer shall approve the unit prices prior to commencement of work. The Developer's engineer and the City shall meet as necessary to develop an approved set of plans. Florida Avenue shall be constructed as an arterial consistent with the standards of the Urbana Land Development and Subdivision Code. Construction of the south half of Florida Avenue shall be at the City's expense, but shall be undertaken by the Developer as a part of the development.

Section 5. Waivers to the Subdivision and Land Development Code: The Corporate Authorities agree to consider waivers to the Subdivision and Land Development Code related to right-of-way width, street pavement width, curbs, and turning radius. These waiver requests shall be considered by the Urbana Plan Commission and City Council as part of the review of the Preliminary Subdivision Plat

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. To the extent permitted thereby, it is agreed that, in the event the annexation of subject tracts 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, 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 life of this Agreement unless specific terms are expressly made binding beyond the life of this Agreement. Furthermore, the terms herein are hereby expressly made binding upon all heirs, grantees, lessees, executors, assigns and successors in

interest of the Owner as to all or any part of the tracts, and are further expressly made binding upon said City and the duly elected or appointed successors in office of its Corporate Authorities.

Section 3. Binding Agreement upon parties -- The Corporate Authorities and Owner agree that neither party will take action or omit to take action during the term of this Agreement which act or omission as applied to the tracts would be a breach of this Agreement without first procuring a written amendment to this Agreement duly executed by both 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 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 tracts.

Section 5. Effective Date -- The Corporate Authorities and Owner intend that this Agreement shall be recorded in the Office of the Champaign County Recorder with any expenses for said recording to be paid by the Corporate Authorities. The effective date of this Agreement shall be the date it is recorded; or if not recorded for any reason, the effective date shall be the date the Mayor signs the agreement on behalf of the City.

IN WITNESS WHEREOF, the Corporate Authorities and Owner have hereunto set their hands and seals, and have caused this instrument to be signed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year written below.

Corporate Authorities:

Owner:

Tod Satterthwaite, Mayor
Weller's Community Homes, Inc.
City of Urbana:

Date

Date

ATTEST:
Notary Public

Date _____
Date

Owner:

Phyllis D. Clark
BankIllinois, Trustee
City Clerk

Date _____
Date

Notary Public

Date

Developer:
Owner:

Little River Development

Mike Suhadolnik, President

St. Agnes Company

Date

Date

Notary Public
Notary Public

Date

Date

Exhibits attached and made a part of this Agreement:

- Exhibit A: Map and Legal Description of Tract "A" and Tract "B"
- Exhibit B: 1992 Previously Approved Annexation Agreement
- Exhibit C: Subdivision Development Layout Plan
- Exhibit D: Park Detail
- Exhibit E: Fence and Column Design
- Exhibit F: Home Style and Layout Examples

Exhibit "A"
Map and Legal Description of Tract "A" and Tract "B"

DESCRIPTION OF PROPERTY

TRACT "A":

A Tract of Land 5.5890 acres in the Southwest Quarter of Section 15, Township 19 North, Range 9 East of the Third Principal Meridian, and being in the City of Urbana, Champaign County, Illinois, the boundary of which is described as follows: Beginning at a steel rod marker at the Intersection of the South Line of Lot 2 of Rainbow Subdivision and the West Line of the Southeast Quarter of said Southwest Quarter Section which Rod Marker is also 601.07 feet southerly from the Northwest Corner of the Northeast Quarter of said Quarter Section; thence north $89^{\circ}-16'-50''$ east 105.50 feet along the Southerly Line of said Rainbow Subdivision to a Steel Rod Marker at the South End of the Centerline of Smith Road; thence north $85^{\circ}-22'-55''$ east 35.79 feet to a steel rod marker; thence north $0^{\circ}-43'-10''$ west 7.07 feet to a steel rod marker located 0.23 feet easterly of the Southwest Corner of Lot 1 of Rainbow Subdivision; thence south $85^{\circ}-03'-13''$ east 96.26 feet to a steel rod marker; thence north $89^{\circ}-16'-50''$ east 14.32 feet to a steel rod marker; thence south $85^{\circ}-03'-13''$ east 272.00 feet to a steel rod marker; thence south $75^{\circ}-23'-56''$ east 284.03 feet to a steel rod marker; thence south $76^{\circ}-17'-14''$ east 235.66 feet to a steel rod marker at the Southeast Corner of Lot 1 of said Rainbow Subdivision; thence south $0^{\circ}-43'-46''$ east 209.46 feet to a steel rod marker; thence south $86^{\circ}-52'-12''$ west 48.46 feet to a steel rod marker; thence north $76^{\circ}-17'-14''$ west 205.01 feet to a steel rod marker; thence north $75^{\circ}-23'-56''$ west 305.63 feet to a steel rod marker; thence north $85^{\circ}-03'-13''$ west 245.96 feet to a steel rod marker; thence south $89^{\circ}-16'-50''$ west 67.71 feet to a steel rod marker; thence southwesterly around a curve having 50 foot radius with initial tangent bearing south $0^{\circ}-43'-10''$ east, and being concave to the west, a curve distance of 78.54 feet to a steel rod marker; thence south $89^{\circ}-16'-50''$ west 50.00 feet to a steel rod marker; thence south $0^{\circ}-43'-10''$ east 15.33 feet to a steel rod marker; thence southwesterly around a curve concave to the west, tangent to the last described course and having a radius 14.50 feet, a curve distance of 27.50 feet to a steel rod marker; thence north $82^{\circ}-02'-42''$ west 42.50 feet to a steel rod marker; thence westerly around a curve concave to the south, tangent to the last described course and having a radius of 280 feet, a curve distance of 42.38 feet to a steel pipe marker at the Southeast Corner of Lot 1359 of the Seventh Plat of Country Squire Estates; thence north $0^{\circ}-43'-10''$ west 110.00 feet along the East Line of said Lot 1359 to a steel pipe marker; thence north $0^{\circ}-43'-10''$ west 115.26 feet along the East Line of Lot 1274 of the Fifth Plat of Country Squire Estates to the Northeast Corner of said Lot 1274; thence south $89^{\circ}-16'-50''$ east 13.50 feet to a steel pipe marker at the East End of Rainbow View Drive; thence north $0^{\circ}-43'-10''$ west 60.00 feet to the North Line of Rainbow View Drive; thence north $89^{\circ}-16'-50''$ east 16.50 feet to the Point of Beginning.

TRACT "B":

A Tract of Land being the Southeast Quarter of the Southwest Quarter, part of the Southwest Quarter of the Southwest Quarter, part of the Northwest Quarter of the Southwest Quarter, and part of the Northeast Quarter of the Southwest Quarter, all lying in Section 15, Township 19 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, the boundary of which may be more particularly described as follows: Beginning at an Iron Pin Monument at the Southeast Corner of the Southwest Quarter of Section 15, Township 19 North, Range 9 East of the Third Principal Meridian as shown on a Monument Record in Book 1992 on Page 419 in the Office of the Champaign County Recorder of Deeds; thence south $89^{\circ}-07'-54''$ west along the South Line of said Southwest Quarter, for a distance of 1322.75 feet to an Iron Pin Monument set at the Southwest Corner of the Southeast Quarter of said Southwest Quarter, said Iron Pin Monument also being 0.37 feet south and 0.38 feet west of an Iron Pin Monument found; thence north $00^{\circ}-46'-11''$ west, for a distance of 623.51 feet to an Iron Pin Monument found at the Southeast Corner of Lot 159 of Weller's Lincolnwood Second Section as shown on a Plat recorded in Plat Book "U" on Page 46 in the Office of the Champaign County Recorder of Deeds, said Iron Pin Monument lying 0.56 feet west of the West Line of said Southeast Quarter of the Southwest Quarter; thence north $00^{\circ}-39'-20''$ west along the East Line of said Weller's Lincolnwood Second Section, for a distance of 482.91 feet to the Northeast Corner of Lot 153 of said Weller's Lincolnwood Second Section, said Northeast Corner being 0.07 feet west of an Iron Pin Monument found and also being 0.03 feet west of the West Line of said Southeast Quarter of the Southwest Quarter; thence north $00^{\circ}-42'-45''$ west, for a distance of 259.92 feet to an Iron Pin Monument set on the West Line of the Northeast Quarter of the Southwest Quarter, said Iron Pin also set being on an extension of the South Line of Country Squire Estates Seventh Subdivision, the Plat of which is recorded in Plat Book "W" on Page 26, in the Office of the Champaign County Recorder of Deeds, said Iron Pin set also being 0.34 feet west of an Iron Pin Monument found; thence north $89^{\circ}-48'-38''$ west along the Extension of said South Line of the Country Squire Estates Seventh Subdivision, for a distance of 29.69 feet to the Southeast Corner of Lot 1399 of said Country Squire Estates Seventh Subdivision, said Southeast Corner also being 0.06 feet west of an Iron Pin Monument found; thence north $00^{\circ}-45'-59''$ west along the East Line of said Country Squire Estates Seventh Subdivision, for a distance of 406.09 feet to the Southeast Corner of Lot 1359 of said Country Squire Estates Seventh Subdivision, said Southeast Corner lying 0.11 feet west of an Iron Pin Monument found, said Southeast Corner also being the Southwest Corner of the Proposed Rainbow Second Subdivision; thence along a circular curve to the right having a radius of 280.00 feet, a central angle of $08^{\circ}-43'-10''$, a chord being of South $86^{\circ}-08'-08''$ east, and a chord length of 42.57 feet, for an arc length of 42.61 feet to an Iron Pin Monument found; thence south $82^{\circ}-04'-10''$ east along the South Line of said Proposed Subdivision, for a distance of 42.25 feet to an Iron Pin Monument found; thence along a circular curve to the left having a radius of 14.50 feet, a central angle of $92^{\circ}-08'-20''$, a chord bearing of north $49^{\circ}-06'-58''$ east, a chord length of 20.89 feet, for an arc length of 23.32 feet to an Iron Pin Monument found; thence north $00^{\circ}-54'-10''$

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west along said South Line of the proposed Subdivision, for a distance of 15.23 feet to an Iron Pin Monument found; thence north $89^{\circ}-13'-56''$ east along said South Line of the proposed Subdivision, for a distance of 50.00 feet to an Iron Pin Monument found; thence along a circular curve to the left having a radius of 50.00 feet, a central angle of $90^{\circ}-01'-23''$, a chord bearing of North $44^{\circ}-10'-51''$ east, and a chord length of 70.73 feet, for an arc length of 78.56 feet to an Iron Pin Monument found; thence north $89^{\circ}-17'-22''$ east along said South Line of the Proposed Subdivision, for a distance of 67.75 feet to an Iron Pin Monument found; thence south $85^{\circ}-04'-03''$ east along said South Line of the Proposed Subdivision, for a distance of 245.98 feet to an Iron Pin Monument found; thence south $75^{\circ}-26'-21''$ east along said South Line of the Proposed Subdivision, for a distance of 305.76 feet to an Iron Pin Monument found; thence south $76^{\circ}-19'-04''$ east along said South Line of the Proposed Subdivision, for a distance of 204.87 feet to an Iron Pin Monument found; thence north $86^{\circ}-49'-41''$ east along said South Line of the Proposed Subdivision, for a distance of 48.43 feet to an Iron Pin Monument found at the Southeast Corner of said Proposed Subdivision; thence north $00^{\circ}-50'-05''$ west along the East Line of said Proposed Subdivision for a distance of 209.39 feet to an Iron Pin Monument found at the Southeast Corner of the Rainbow Subdivision as shown on a Plat recorded in Plat Book "BB" on Page 292 in the Office of the Champaign County Recorder of Deeds; thence north $00^{\circ}-41'-31''$ west along the East Line of said Rainbow Subdivision for a distance of 224.39 feet to an Iron Pin Monument found at the Northeast Corner of said Rainbow Subdivision, said Iron Pin Monument also being on the South Line of a 4.81 acre tract identified as Parcel No. 91-21-15-326-008 by the Champaign County Supervisor of Assessments; thence south $76^{\circ}-38'-58''$ east along the South Line of said Tract, for a distance of 100.81 feet to an Iron Pin Monument set; thence north $89^{\circ}-34'-15''$ east along the South Line of said Tract, for a distance of 200.00 feet to an Iron Pin Monument found at the Southeast Corner of said Tract, said Iron Pin Monument also being on the East Line of said Southwest Quarter of Section 15; thence south $00^{\circ}-44'-40''$ east along said East Line of the Southwest Quarter, for a distance of 2093.11 feet back to the Point of Beginning.

Exhibit "B"
1992 Previously Approved Annexation Agreement

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Exhibit "C"
Subdivision Development Layout Plan

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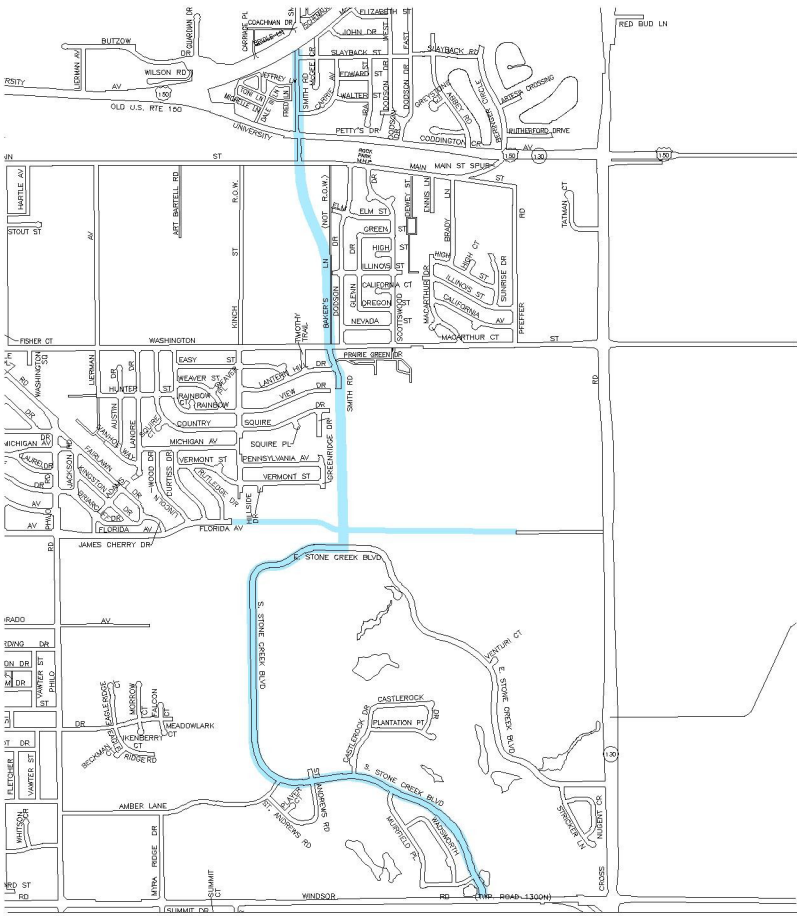
Exhibit “D”
Park Detail
(show park plan from booklet)

Exhibit "E"
Fence and Stone Column Detail
(show rendering from booklet)

Exhibit "F"
Home Style and Layout Examples
(show home floor plans from booklet)

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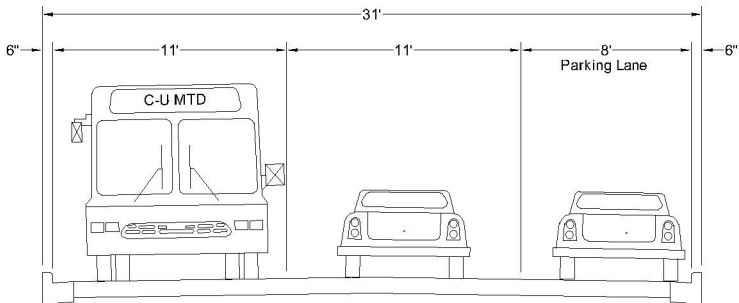


Smith Road Corridor

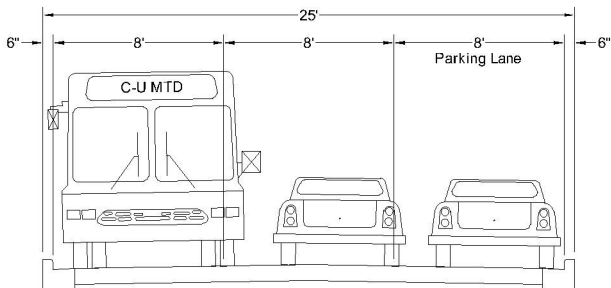
City of Urbana
 Public Works Department
 Engineering Division



Date: 06/26/01 Drawn by: BWF



31' City Standard Street Width



25' Developer Proposed Street Width

Typical Street Cross-section

City of Urbana
 Public Works Department
 Engineering Division
 Date: 06/29/01 Drawn by: BWF

