



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning and Economic Development Division

m e m o r a n d u m

TO: The Urbana Plan Commission

FROM: Reed A. Berger, AICP

DATE: October 11, 2001

SUBJECT: Plan Case No. 1800-A-01: Request by United Fuel Company to annex 1802 N. Cunningham Avenue to the City of Urbana with a zoning designation of B-3, General Business.

Introduction

The City of Urbana has proposed to annex approximately 3 acres of property located just south of Interstate 74 at 1802 N. Cunningham Avenue (see Exhibit "A"). The requested zoning designation upon annexation is B-3, General Business. The current Champaign County zoning designation for the site is B-3, Highway Business. A copy of the proposed Annexation Agreement is attached to this memorandum.

Background

The City of Urbana secured an annexation petition from the owners of United Fuel Company, a family-owned business (the Warner family), when the proposed incorporation of Big Grove threatened to include their property in the new village. This annexation petition was conditioned upon the owners and the City reaching a mutually acceptable annexation agreement. Although the annexation petition has since expired, the parties have continued to work toward an acceptable agreement. A key reason to conclude the annexation at this time is the fact that United Fuel is proposed to be included in a proposed tax increment finance (TIF) district. If United Fuel is not annexed prior to adoption of the TIF district, then it will be necessary to exclude the company from the proposed TIF boundary. Because the proposed TIF district would provide a funding source to potentially assist United Fuel with future relocation and redevelopment assistance, City staff hopes to conclude annexation before December 3, 2001 when a public hearing will be held to consider the TIF district proposal.

The proposed zoning designation of B-3, General Business would be entirely consistent with the Urbana Comprehensive Plan land use designation. The Comprehensive Plan identifies this area as suitable for Airport land uses.

Adjacent Land Uses and Zoning Designations

The tract is primarily surrounded by commercial land uses including a Motel 6, and Union 76 gas station to the north; Eastland Suites (hotel), a Bigfoot gas station, and the Car Lot to the west; and AAA Storage, the new Longhorn Smokehouse restaurant, and the Shamrock Tavern to the south. To the west is the Willow Springs planned unit development (P.U.D.), a residential condominium complex to the east. Please refer to the table below and to the attached maps for information on surrounding comprehensive plan and zoning designations and existing land uses.

COMPREHENSIVE PLAN DESIGNATION, ZONING, AND LAND USE TABLE

Direction	Comprehensive Plan	Zoning	Land Uses
Site	Commercial	B-3, Highway Business (County)	Industrial
North of:	Commercial	B-3, General Business (City) B-4, General Business (County)	Commercial
East of:	Residential	R-3, Two Family Residence (County)	Residential
West of:	Commercial	B-3, General Business (City) B-4, General Business (County)	Commercial
South of:	Commercial	B-3, General Business (City)	Commercial

Issues and Discussion

The City staff has proposed that United Fuel be annexed into the City of Urbana under the terms of the attached proposed annexation agreement.

In considering the proposed zoning designation, the Plan Commission must consider effects upon the public health, safety, comfort, morals and general welfare of the community. The City's Comprehensive Plan and zoning law decisions in the Illinois Courts provide a framework for this consideration.

Comprehensive Plan Goals, Objectives and Policies

The following goals and policies of the 1982 Urbana Comprehensive Plan relate to this case:

- Goal 1.300* To ensure that financial resources required to provide the City's residents with needed services and facilities are available and will continue to be available in the future.
- Goal 3.100* To organize and develop land uses and adjacent properties in a balanced and mutually compatible manner relative to the functional needs of the City.
- Goal 3.110* Promote development in the City and surrounding unincorporated areas in a manner which minimizes conflicting land uses and/or adjacent development.
- Goal 4.100* To increase sources of municipal revenues required to continue providing existing and future increased levels of municipal services.
- Objective 4.100* Increase the proportion of land uses which produce municipal revenues equal to, or in excess of, the cost of required services.
- Policy 4.111* Promote mixtures of compatible uses, improvements in services and facilities, aesthetics and public convenience, in existing commercial and industrial developments.
- Policy 4.113* Facilitate expansion plans of local businesses, commercial and industrial concerns.
- Goal 6.100* To increase and diversify the tax base of the City of Urbana.
- Objective 6.110* Encourage the promotion of commercial and industrial development which is compatible with the character, environment, and resources of the community.

Policy 6.112 Support rezoning petitions for land that has been identified as having the greatest potential within the parameters of the Plan for commercial and industrial development.

The following additional goal of the 1993 Extra-Territorial Jurisdictional Area Plan (ETJ Plan) relates to this case:

Goal 15.300 To actively seek annexation of targeted areas designated for commercial and industrial development.

The La Salle National Bank Criteria

In the case of *La Salle National Bank v. County of Cook* (the “La Salle” case), the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed in the Annexation Agreement.

1. *The existing land uses and zoning of the nearby property.*

This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.

The proposed rezoning to B-3, General Business would be consistent with existing General Business zoning designations that exist both within and outside the City limits to the north, west, and south of the site. The Annexation Agreement recognizes that the existing land use of a bulk fuel facility is not compatible with the surrounding uses and would be redeveloped in the future for a commercial use compatible with the surrounding uses. Under the terms of the annexation agreement the City of Urbana will work with the property owner to promote redevelopment that is will be mutually acceptable and economically feasible.

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

This is the difference in the value of the property as zoned and the value it would have if it were rezoned to permit the proposed use.

The value of the petitioner’s property is diminished by its existing County B-3 Highway Business zoning designation considering that direct conversion upon annexation from the B-3 zoning classification in the County would mean a classification as B-2 Neighborhood Business – Arterial in the City. A review of the City’s B-2 and B-3 Zoning Description sheets attached as Exhibit I demonstrates the limitations in the B-2 district both for uses permitted by right and more importantly, a special requirement to add residential uses to commercial development over 3,000 square feet. These restrictions and the fact that the parcel is surrounded by General Business zoning designations both in the City and County along Cunningham Avenue would create an

isolated zoning district for one parcel with greater restrictions on use compared to all other lots along the arterial street (N. Cunningham Avenue).

It should be noted that City staff is not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact on the value of the property. Therefore, any discussion pertaining to property values must be considered speculative and inconclusive.

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

The annexation of the property will mean that the the regulations of the City will apply to existing and new development, adding additional protection and regulations to benefit both the property owner and surrounding properties. To that end the City has conducted courtesy inspections of the premises and is working closely with the property owner to comply with public safety standards and codes.

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

The question here applies to the current zoning restrictions - do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?

As the subject parcel is located adjacent to commercially zoned land used for commercial purposes, it is difficult to argue that the present zoning of the subject parcel particularly promotes the health, safety, morals or general welfare of the public. Under the current zoning, if annexed without benefit of rezoning to B-3 General Business, United Fuel experiences a hardship and uncertainty associated with the limited uses and imposition of adding residential uses along a commercial corridor that contains all commercial zoning and land uses and which is not intended for residential development. This hardship and uncertainty would seem to outweigh any detriment to the public they may result from the proposed rezoning.

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

The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.

The subject parcel is surrounded by other developed and developing uses and is adequately served by public streets and utilities. The subject parcel is well suited for commercial uses. It has excellent access to Interstate 74 and U.S. Route 45.

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

Another test of the validity of the current zoning district is whether it can be shown that the property has remained vacant for a significant period of time because of restrictions in that zoning district.

The subject parcel has been used as a fuel for a considerable amount of time. The agricultural zoning of the property is not suited for associated airport land uses.

Summary of Staff Findings

8. Annexation of the site with a zoning designation of B-3, General Business is consistent with the Comprehensive Plan designation of the site as Commercial.
9. Annexation of the site with a zoning designation of B-3, General Business would help meet a number of the goals, objectives, and policies of the Urbana Comprehensive Plan.
10. The proposed B-3 zoning for the site would be consistent with existing and planned land uses in the vicinity.
11. The proposed zoning designation appears to generally meet the LaSalle Case criteria.

Options

The Plan Commission has the following options for recommendations to the City Council. In Plan Case 1800-A-01, the Plan Commission may:

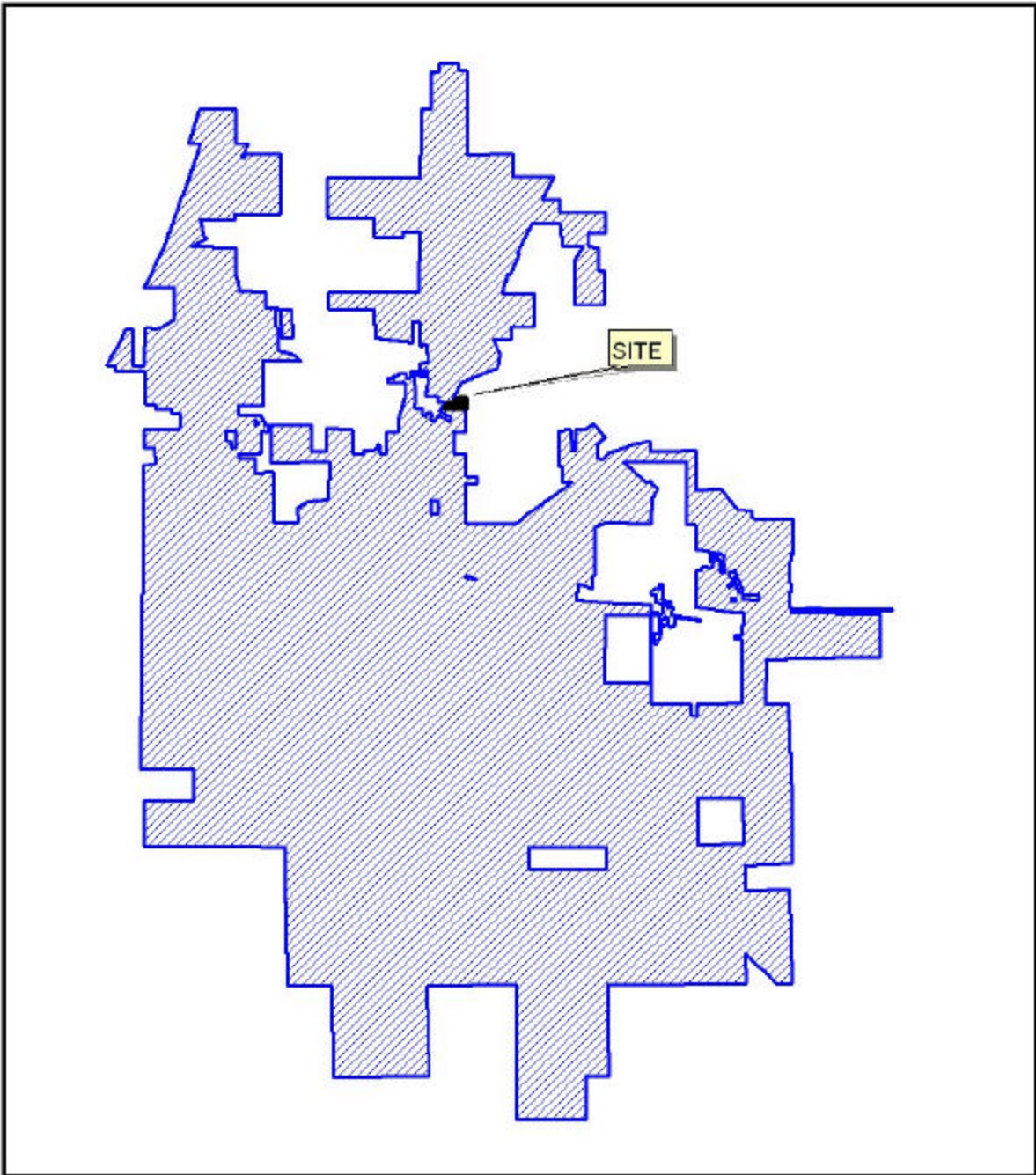
- d. forward this case to City Council with a recommendation for approval of the proposed Annexation Agreement, including a zoning designation of B-3, General Business for the site.
- e. forward this case to City Council with a recommendation for approval of the proposed Annexation Agreement, including a zoning designation of B-3, General Business for the site, subject to recommended changes. (Note that because this is a voluntary annexation, the property owner would have to agree to recommend changes).
- f. forward this case to City Council with a recommendation for denial of the proposed zoning change as specified in the Annexation Agreement.

Staff Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, **staff recommends that the Plan Commission forward Plan Case No. 1800-A-01 with a recommendation for approval.**

c: United Fuel Company

Attachments: Exhibit A, Location Map
 Exhibit B, Future Land Use Designation Map
 Exhibit C, Urbana Zoning Map
 Exhibit D, Champaign County Zoning Map
 Exhibit E, Existing Land Use Map
 Exhibit F, Aerial Photo
 Exhibit G, Proposed Annexation Agreement
 Exhibit H, Letter to Surrounding Property Owners
 Exhibit I, B-2 and B-3 Zoning District Summaries

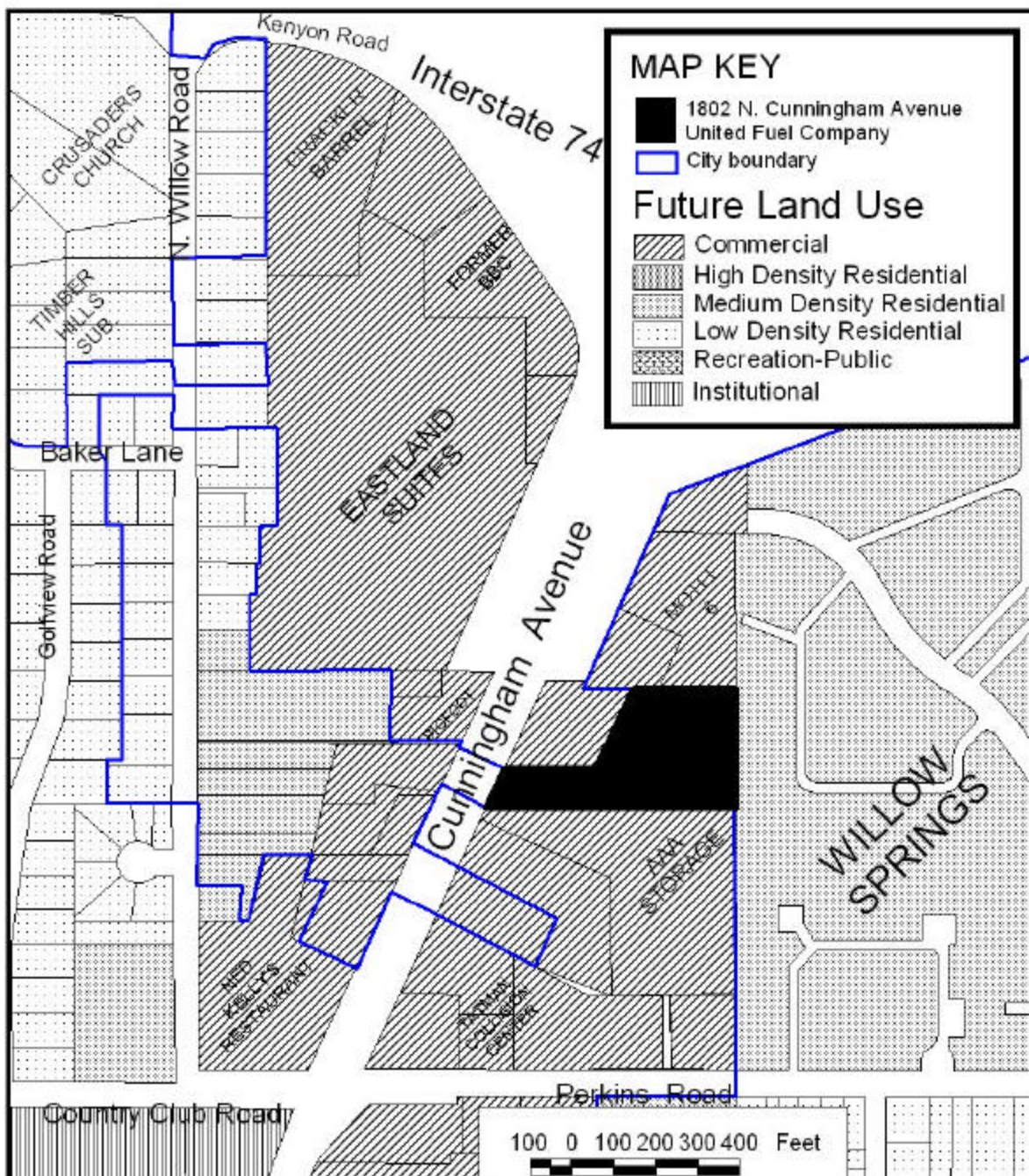


LOCATION MAP

United Fuel Annexation
1802 N. Cunningham Avenue

prepared October 5, 2001 by RAB - Community Development Services



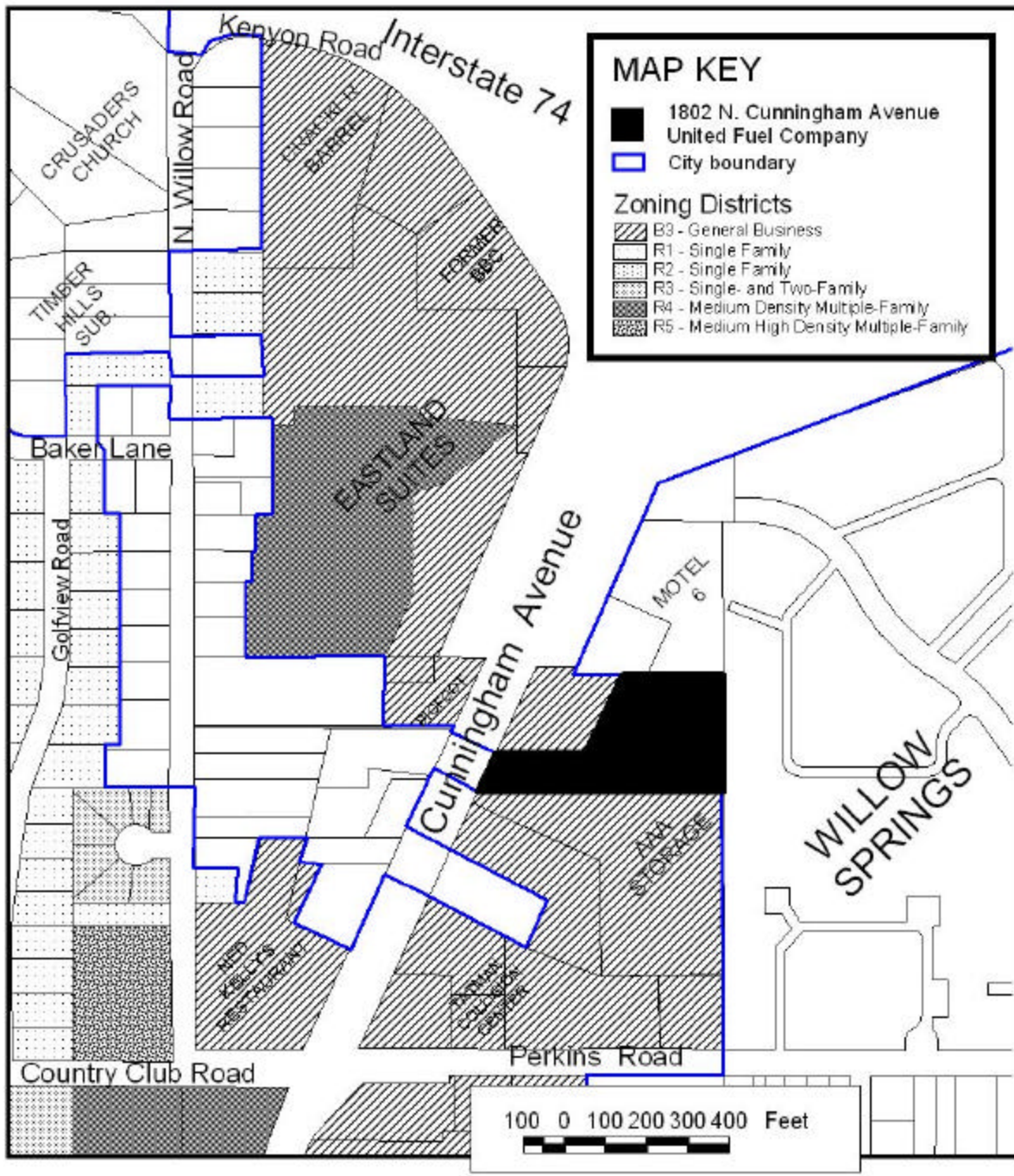


FUTURE LAND USE MAP - Exhibit B

United Fuel Annexation
1802 N. Cunningham Avenue

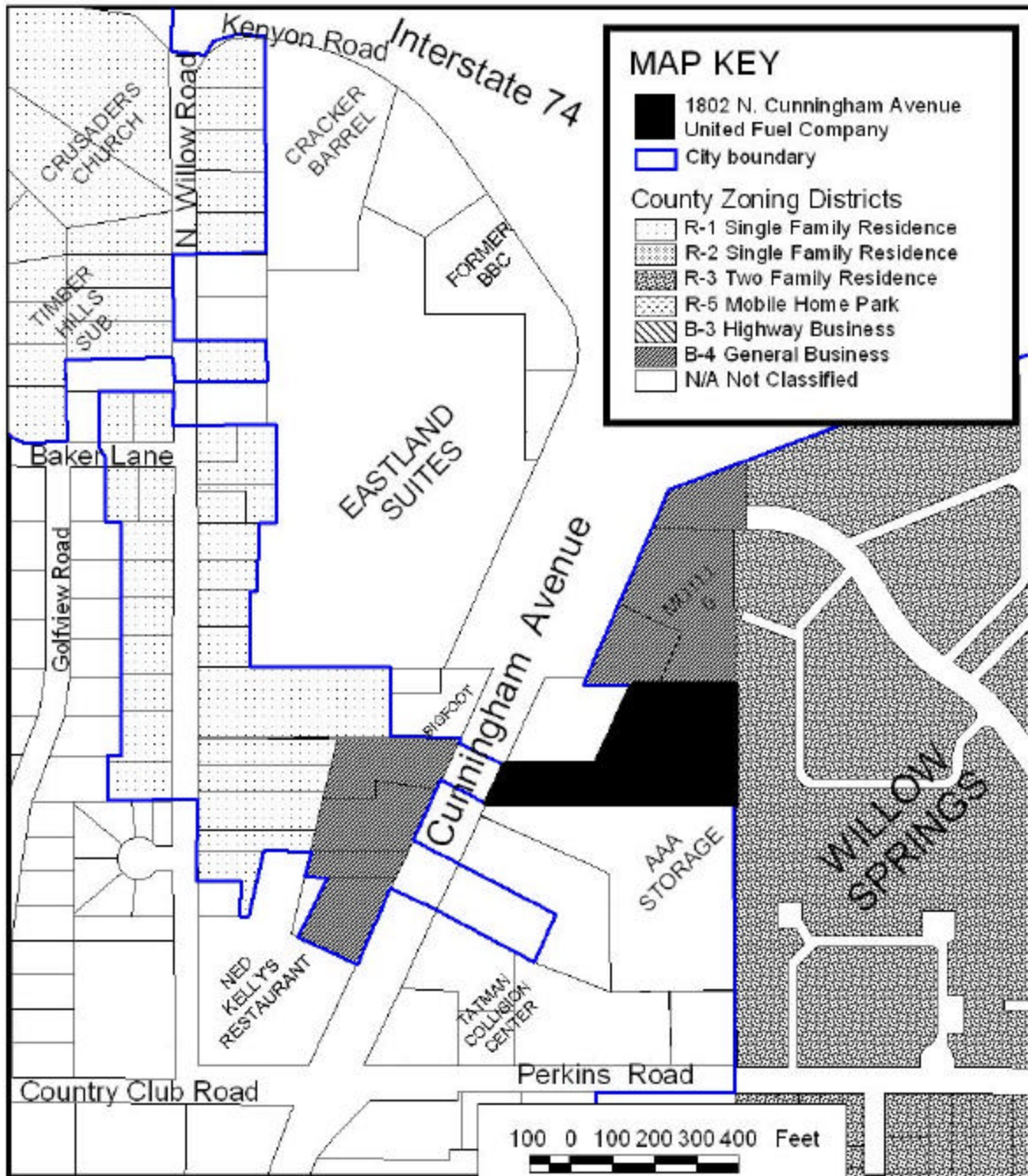
prepared October 5, 2001 by RAB - Community Development Services





CITY OF URBANA ZONING DISTRICTS - Exhibit C
 United Fuel Annexation
 1802 N. Cunningham Avenue
 prepared October 5, 2001 by RAB - Community Development Services

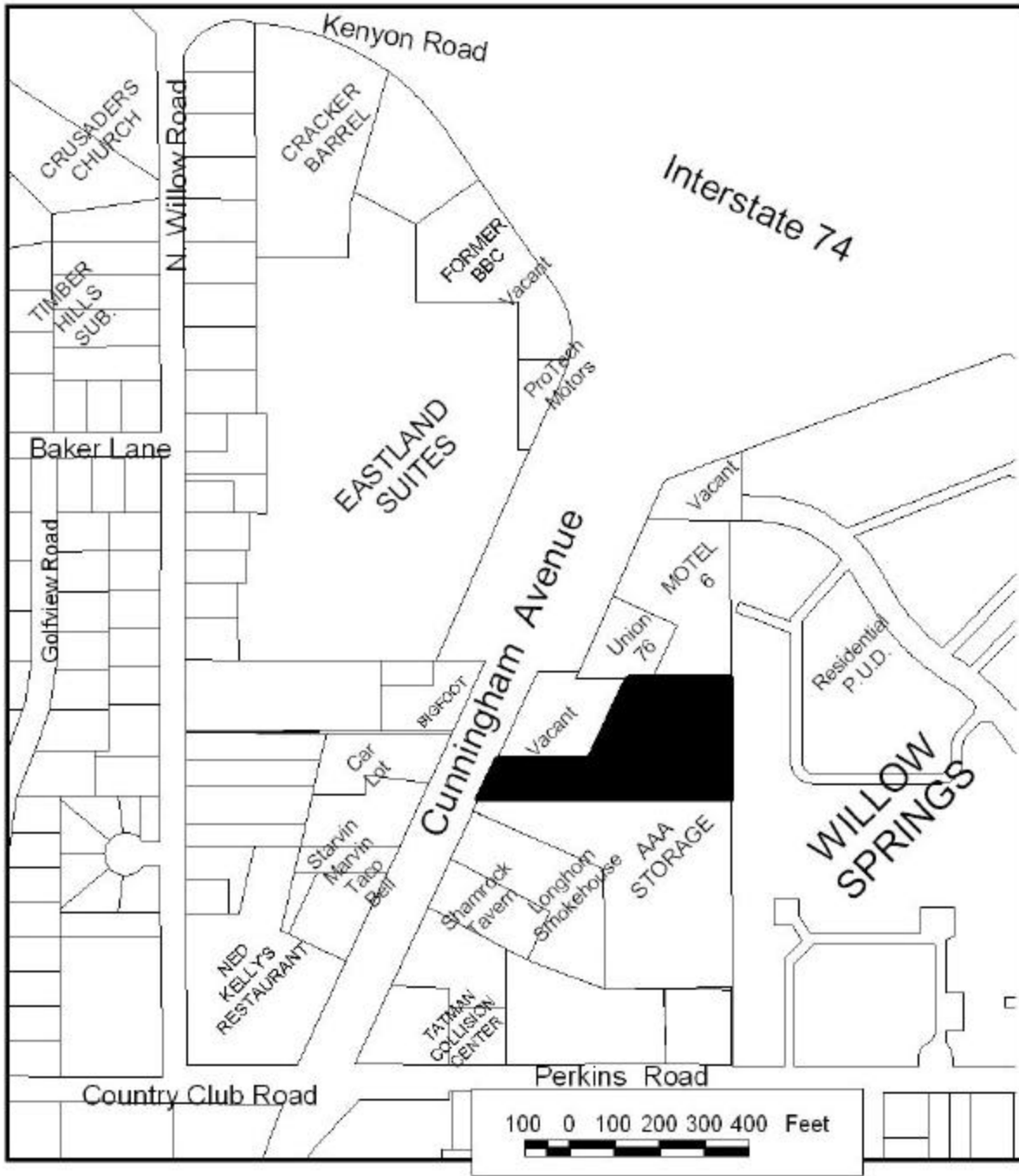




 **CHAMPAIGN COUNTY ZONING DISTRICTS - Exhibit D**

United Fuel Annexation
1802 N. Cunningham Avenue
 prepared October 5, 2001 by RAB - Community Development Services







EXISTING LAND USE MAP - Exhibit E

United Fuel Annexation
1802 N. Cunningham Avenue

prepared October 5, 2001 by RAB - Community Development Services





AERIAL PHOTO

**United Fuel Annexation
1802 N. Cunningham Avenue**

prepared October 5, 2001 by RAB - Community Development Services



He reviewed the history of the City's B-2, Neighborhood Business – Arterial and B-3, General Business classifications.

Mr. Berger stated that the Comprehensive Plan's Future Land Use Map shows the entire stretch of Cunningham Avenue north of Perkins Road as commercial zoning. It does not show any properties being zoned as industrial; therefore, it would not make sense to zone the United Fuel property as industrial.

Next, Mr. Berger reviewed the staff report. He extensively reviewed the La Salle National Bank criteria in relation to this proposal. They are as follows:

1. *The existing land uses and zoning of the nearby properties.*
2. *The extent to which property values are diminished by the restrictions of the ordinance.*
3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.*
4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*
5. *The suitability of the subject property for the zoned purposes.*
6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

Mr. Berger gave a summary of the staff findings. He read the Plan Commission's options for recommendations to the City Council. He stated that staff recommended that the Plan Commission forward Plan Case No. 1800-A-01 with a recommendation for approval.

Mr. Alix asked if the reason for this case to appear before the Plan Commission was because of the zoning changes of the property? Ms. Tyler stated that was correct. Mr. Alix asked if annexations were administrative matters if their translations hold? Ms. Tyler replied that was correct unless there is a zoning issue such as special use permit or rezoning, then the case would go directly to City Council.

Mr. Alix requested in the form of a question if staff would consider bringing the Plan Commission an amendment to eliminate the anachronism in the translation table between Champaign County zoning and the City of Urbana's zoning. Mr. Berger's explanation, of why the County's B-3 classification would be more appropriately translated to the City's B-3 as opposed to the B-2 classification, seemed to be plausible. Ms. Tyler replied that it needed to be a correction. There were other small corrections, and staff could put the corrections together as an omnibus.

Mr. Alix moved to forward this case to City Council with the recommendation of approval. Ms. Stake seconded the motion. The roll call was as follows:

Mr. Rank	-	Yes	Ms. Stake	-	Yes
Ms. Upah-Bant	-	Yes	Mr. Alix	-	Yes
Mr. Douglas	-	Yes	Mr. Pollock	-	Yes

The motion was passed by unanimous vote.



EXHIBIT A
NOTICE OF INTENT TO ANNEX TERRITORY
TO THE CITY OF URBANA

TO:

Ken Buchanan
501 McGee Road
Urbana, IL 61802

Gregory F. Foster
310 Yankee Ridge Lane
Urbana, IL 61802

David Lemke
1781 Independence
Urbana, IL 61802

Paul Tatman
2802 E. Slayback Road
Urbana, IL 61802

Urbana Township Board of Trustees

and

Don Flessner
Urbana Township Supervisor
2312 E. Perkins Road
Urbana, IL 61802

and

Jim Prather
Urbana Township Commissioner of Highways
2312 E. Perkins Road
Urbana, IL 61802

and

Thomas E. Harnsberger
2104 E. Barnes Street
Urbana, IL 61802

Barney Bryson
2102 E. Barnes Street
Urbana, IL 61802

Robert Venable
1912 Kenneth Street
Urbana, IL 61802

Trustees of Carroll Fire Protection District

You and each of you are hereby notified, pursuant to the provisions of Section 5/7-1-1 of the Illinois Municipal Code, as amended (65 ILCS 5/7-1-1), that the Council of the City of Urbana, Illinois, will consider passage of an Ordinance annexing the following described territory to the City of Urbana:

A tract lying in the Southwest Quarter of the Southwest Quarter of Section Four, Township Nineteen North, Range Nine (9) East of the Third Principal Meridian conveyed in a Warranty Deed, dated September 12, 1985, and recorded October 4, 1988 in Book 1606, at page 440, in the Office of Recorder of Deeds, Champaign County, Illinois, more particularly described as follows:

The South 4 acres of the North 4.063 acres of Lot Two (2) of a Subdivision of Lot One (1) of a Subdivision of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Four (4), Township Nineteen (19) North, Range Nine (9) East of the Third Principal Meridian, per plat recorded in Deed Record Book 32, at page 622, in the Office of Recorder of Deeds, Champaign County, Illinois, situated in Champaign County, Illinois, except the following described tract of ground:

Beginning at the Northwest corner of the above described tract; thence East along the north line of the above described tract 65.72 feet to a tube pipe monument No. 1723 [sic] said point being on the East right-of-way line of U.S. Route 45; thence East along said North line 200.00 feet to an iron rod monument; thence Southwesterly parallel with said right-of-way 200.00 feet to an iron rod monument; thence West parallel with said North line 200.00 feet to an iron rod monument said point being on the East right-of-way line of U.S. Route 45; thence West parallel with said North line 66.67 feet to the West line of the above described tract; thence Northeasterly along said west line 200.38 feet to the point of beginning.

Except that part of the Right-of-Way for S.B.I. 25 (U.S. Route 45 and Cunningham Avenue) lying within the above described tract.

All situated in Urbana Township, Champaign County, Illinois and encompassing 3.15 acres, more or less.

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 tract:

That portion of N. Cunningham Avenue (U.S. Route 45) right-of-way lying adjacent to the herein annexed tract, and not currently within the Urbana City Limits.

commonly known for reference as **1802 N. Cunningham Avenue**, Urbana, Illinois, and further referenced as a part of Champaign County permanent parcel number **30-21-04-352-013**. Said territory lies within the boundaries of Carroll Fire Protection District and the Urbana Township, and is contiguous to the City of Urbana, Illinois.

Notice is further given that the Council of the City of Urbana will consider an Ordinance annexing the above-described territory to the City at its regular meeting **Monday, November 19, 2001** at 7:30 p.m. in the Council Chambers of the City Building located at 400 South Vine Street, Urbana, Illinois.

City Clerk
City of Urbana, Illinois

ORDINANCE NO. 2001-11-149

AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE CITY OF URBANA

(United Fuel / 1802 N. Cunningham Avenue)

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 the 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, said notices being mailed on November 1, 2001, that this Ordinance would be voted upon at the regular meeting of this Council at 7:30 p.m., Monday, November 19, 2001, and the Affidavit of mailing such Notices was duly recorded with the Recorder of Deeds of Champaign County, Illinois, on the 1st day of November, 2001; and

WHEREAS, there are no electors residing within such territory; and

WHEREAS, the City Council passed Ordinance No. 2001-11-148 on November 19, 2001 approving and authorizing the execution of an annexation agreement; and

WHEREAS, the territory to be annexed by this Ordinance is presently located within Champaign County's B-3 Highway Business zoning district and upon annexation will be classified B-3 General Business upon annexation in accordance with the above-referenced annexation 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:

Section 1. That the following described real estate, viz:

A tract lying in the Southwest Quarter of the Southwest Quarter of Section Four, Township Nineteen North, Range Nine (9) East of the Third Principal Meridian conveyed in a Warranty Deed, dated September 12, 1985, and recorded October 4, 1988 in Book 1606, at page 440, in the Office of Recorder of Deeds, Champaign County, Illinois, more particularly described as follows:

The South 4 acres of the North 4.063 acres of Lot Two (2) of a Subdivision of Lot One (1) of a Subdivision of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Four (4), Township Nineteen (19) North, Range Nine (9) East of the Third Principal Meridian, per plat recorded in Deed Record Book 32, at page 622, in the Office of Recorder of Deeds, Champaign County, Illinois, situated in Champaign County, Illinois, except the following described tract of ground:

Beginning at the Northwest corner of the above described tract; thence East along the north line of the above described tract 65.72 feet to a tubeco pipe monument No. 1723 [sic] said point being on the East right-of-way line of U.S. Route 45; thence East along said North line 200.00 feet to an iron rod monument; thence Southwesterly parallel with said right-of-way 200.00 feet to an iron rod monument; thence West parallel with said North line 200.00 feet to an iron rod monument said point being on the East right-of-way line of U.S. Route 45; thence West parallel with said North line 66.67 feet to the West line of the above described tract; thence Northeasterly along said west line 200.38 feet to the point of beginning.

Except that part of the Right-of-Way for Cunningham Avenue (U.S. Route 45) lying within the above described tract.

All situated in Urbana Township, Champaign County, Illinois and encompassing 3.15 acres, more or less.

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 tract:

Cunningham Avenue, (U.S. Route 45) Right-of-Way lying adjacent to the above described parcel, being 120 feet in width.

Encompassing 0.26 acre, more or less, all being situated in Champaign County, Illinois.

commonly known for reference as 1802 N. Cunningham Avenue, Urbana, Illinois, be and the same is hereby annexed to the City of Urbana, Illinois. The above-

described parcel, prior to annexation, has the parcel index number 30-21-04-352-013 and following annexation the said parcel should bear the parcel index number 91-21-04-352-013.

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 hereinabove described in the Recorder's Office of Champaign County, Illinois.

Section 3. That the City Clerk be authorized and directed to file, for record, a certified copy of this Ordinance together with an accurate map of the territory hereinabove described in the Office of the County Clerk and County Election Authority of Champaign County, Illinois.

Section 4. The Zoning Ordinance of the City of Urbana, Illinois, and the Zoning Map of Urbana, Illinois, are hereby amended to classify the real property as B-3 General Business upon annexation and in accordance with Ordinance No. 2001-11-148 passed by the Urbana City Council on November 19, 2001, approving and authorizing the execution of an annexation agreement for said territory.

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

Section 6. This Ordinance shall take effect at 12:00 p.m. CDT, December 1, 2001.

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 ____ day of _____, 2001, A.D.

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

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

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

Tod Satterthwaite, Mayor