



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Economic Development Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director

DATE: March 4, 2004

SUBJECT: Development Agreement between City of Urbana and Michelle's Bridal Shoppe, Inc.

Description

The purpose of this memorandum is to seek approval to enter into a development agreement with Michelle's Bridal Shoppe, Inc. in consideration of Michelle's Bridal's desire to relocate and meet their space requirements with the construction of a new \$600,000, 8,000 to 9,000 square foot retail building at the intersection of Anthony Drive and Willow Road (Exhibit E), just north of Interstate-74. If approved, the agreement would require of the City to extend sewer to the site and would require of the developer the dedication of Right-of-Way for future intersection improvements at Anthony and Willow, pursuant to the developer's satisfactory completion of goals in the timelines laid out in the agreement.

Issues

The property proposed for development (Exhibit B) falls within the boundaries of Tax Increment Finance District 4 (Exhibit C) and within the boundaries of the Urbana Enterprise Zone. The TIF district was established as part of the Cunningham Avenue Corridor Redevelopment Plan (passed December 17, 2001). The TIF allows for the City of Urbana to apply TIF funds for public infrastructure and other eligible improvements within the Redevelopment Project Area.

As stated in the plan, the area along Cunningham Avenue north of Interstate 74 is suitable for additional commercial or light industrial uses by taking advantage of the Interstate 74/Cunningham Avenue interchange and of Frasca Airfield. It is hoped that the completion of the large regional auto park at the northwest corner of the interchange, as well as the recent completion of the big-box retailer to the north, will attract new commercial developments that will help serve the retail and service needs of the community and region.

Michelle's has already acquired the land at 2210 N. Willow Road, and is willing to dedicate a portion of their land as Right-of-Way for the future improvement of the intersection at Anthony Drive and Willow Road. The City already identified a location along the Willow Road Right-of-Way for extension of the sanitary sewer line.

The leveraging of private funds to develop and improve properties in the Interstate 74/Cunningham Avenue area is in line with the goals of the Cunningham Avenue Corridor Redevelopment Plan. It is also a goal to increase the amount of retail business space in the City of Urbana and to increase the property tax base within TIF 4. In light of these facts, it is in the City's best interest to construct the sewer extension and provide certain financial incentives in order to allow this project to occur.

Background

The owners of Michelle's Bridal Shoppe approached City staff stating their desire to build a new, larger retail facility for their business on a 1-acre tract they own at Anthony and Willow. They identified a need to increase their visibility and appeal to a more regional base, as well as to increase the size of their building in order to accommodate their growing inventory and stay competitive with other businesses in the same market. In order to make the project feasible, Michelle's owners requested certain incentives from the City in return for their investment in the new site.

As described in Exhibit D, the development agreement would require the City to construct a sanitary sewer line to the property, reserve one TIF Redevelopment Program loan subsidy up to \$60,000 with a 10% grant component, and provide a 5-year abatement of City and County property taxes in lieu of an Enterprise Zone abatement. All of these obligations would be contingent upon the acquisition of building permits and the substantial completion of the project according to the timelines laid out in the Agreement.

Because the site lies within both the boundaries of the Enterprise Zone and a Tax Increment Finance District, the property owners are not eligible for the property tax abatements under the Enterprise Zone program. Instead, the City will provide the abatements in lieu of the Enterprise Zone tax abatements under the same guidelines of the Enterprise Zone Program, which would allow for a percentage abatement based on jobs created or retained, and increased equalized assessed valuation attributed to the improvements of the project. Payment by the City will be made upon receipt of a copy of the tax bill and a written statement requesting the rebate submitted to the Finance Department.

The TIF Redevelopment Incentive Program loan for North Cunningham is eligible for retail, entertainment, and lodging/conference businesses involving new construction, expansion, or renovation. In addition, the business must be able to increase its Equalized Assessed Valuation (EAV) by at least \$50,000 and comply with the goals and objectives outlined in the Cunningham Avenue Corridor Redevelopment Plan. In order to qualify for the additional 10% grant component in TIF 4 (up to \$6,000), the business must provide a targeted retail use as outlined in the criterion. The proposed development would meet these guidelines.

Fiscal Impact

The estimated total cost of the sewer extension is \$17,000. These funds will be programmed into the 2004-2005 CIP budget. The estimated cost to the City for the North Cunningham Loan & Grant is \$7,740 for a \$60,000 loan plus an additional \$6,000 if the project/tenant qualifies for the full grant amount. The loan/grant money would be deducted from TIF 4 funds set aside for the incentive program. The estimated annual cost to the City for the property tax abatements is \$4,100. This would not require a budget amendment. In return for these incentives, the City would receive positive future benefits in the form of increased EAV, increased tax increment for TIF 4 and additional sales tax revenue generated by the project. In addition, this project could help spur further interest in the North Cunningham area for commercial development.

Recommendations

Staff requests City Council approval of the development agreement between the City of Urbana and Michelle's Bridal Shoppe, Inc., as generally described herein, through approval of the proposed development agreement.

Attachments: A: Ordinance
 B: Subject Property Map
 C: TIF District 4 Map
 D: Draft Development Agreement
 E: Proposed Site Plan

Prepared by:

Ryan Brault, Redevelopment Specialist

ORDINANCE NO. 2004-03-025

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH MICHELLE'S BRIDAL SHOPPE, INC.

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

Section 1. That a Development Agreement authorizing allocation of funds for financial incentives associated with the development of a new retail building to be located at the northeast corner of the intersection of Willow Road and Anthony Drive, between the City of Urbana and Michelle's Bridal Shoppe, Inc., in substantially the form of the copy of said 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 Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

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

AYES:

NAYS:

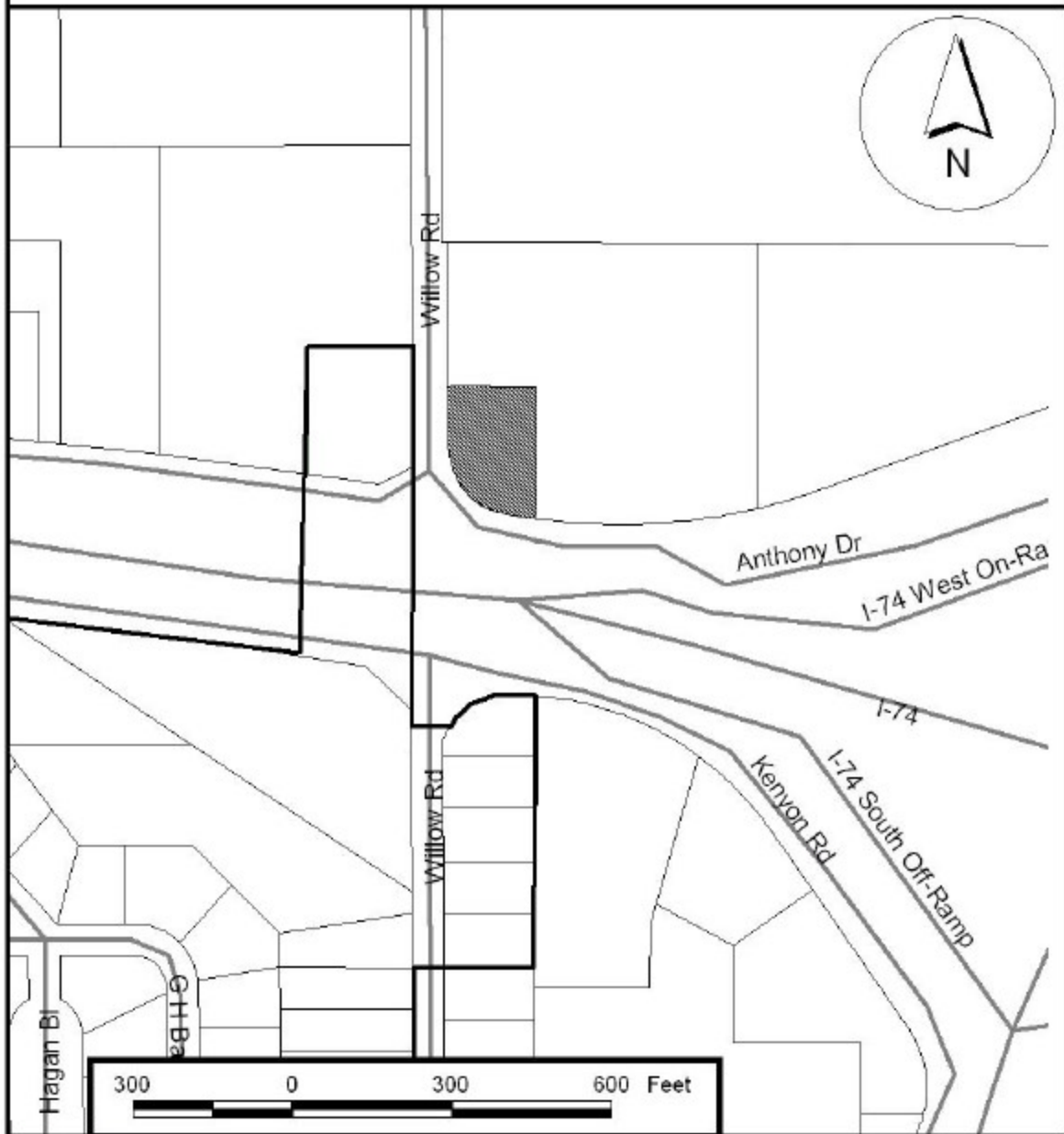
ABSTAINS:

Phyllis D. Clark, City Clerk

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




Tod Satterthwaite, Mayor

Exhibit B: Location Map



Proposed Michelle's Bridal Shoppe
2210 North Willow Road

Prepared March 1, 2004 by RLB, City of Urbana Community Development

-  Subject Property
-  City Boundary
-  Roads

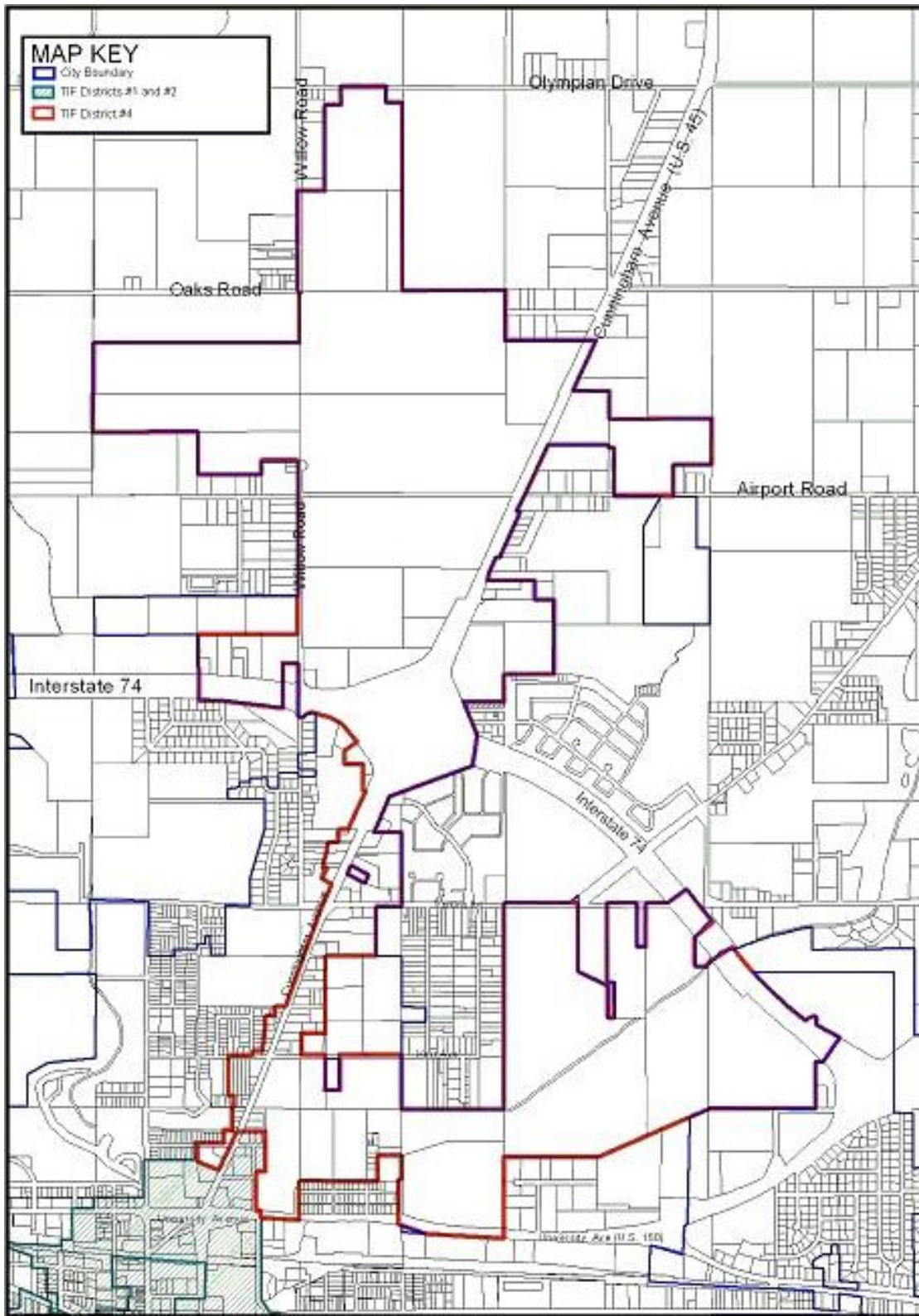


Exhibit "C"
Urbana TIF 4 Boundary Map



**DEVELOPMENT AGREEMENT BETWEEN THE CITY OF URBANA AND
ROD AND MICHELLE SCHWEIGHART (MICHELLE’S BRIDAL SHOPPE)**

This Development Agreement (including any attachments and exhibits collectively, the “Agreement”) by and between the City of Urbana, an Illinois Home Rule municipality, Champaign County, Illinois (“the City”) and Michelle’s Bridal Shoppe, Inc. (hereafter “Developer”), dated the ____ day of _____, 2004, even though the parties have executed this Agreement on different dates.

WHEREAS, Developer is the owner of a bridal and formal apparel store, commonly known as Michelle’s Bridal; and

WHEREAS, the owners have purchased land located at 2210 N. Willow Road (hereafter “the Site”); and

WHEREAS, the Site is located within the boundaries of Tax Increment Finance District 4 and the Urbana Enterprise Zone; and

WHEREAS, Developer has agreed, if certain financial incentives and capital improvements are provided, to construct a new, larger retail building for their bridal and formal wear store on the Site; and

WHEREAS, the facilitation of new retail development and expansion in Urbana by leveraging private funds are in the public interest.

NOW THEREFORE, FOR AND IN CONSIDERATION of the mutual promises herein contained, the parties agree as follows:

ARTICLE I

REPRESENTATIONS AND WARRANTIES

Section 1.1 Representations and Warranties of the City. In order to induce the Developer to enter into this Agreement, the City hereby makes certain representations and warranties to the Developer, as follows:

Section 1.2 Organization and Standing. The City is a home rule municipality duly organized, validly existing and in good standing under the Constitution and laws of the State of Illinois.

Section 1.3 Power and Authority. The City has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder. And to the extent, if at all, anything to be done under this Agreement by the City which is not in conformance with statutes, the provisions of this Agreement shall control, it being the intention of the City to invoke its constitutional Home Rule powers and Article VII, Section 10 (Intergovernmental Cooperation) of the Illinois Constitution to support the provisions of this agreement.

Section 1.4 Validity. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the City's Corporate Authorities. This Agreement is a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, however, such enforceability may be limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

Section 1.5 No Violation. Neither the execution nor the delivery of this Agreement or the performance of the City's agreements, obligations and undertakings hereunder will conflict with,

violate or result in a breach of any of the terms, conditions, or provisions of any agreement, rule, regulation, statute, ordinance, judgment, decree or other law by which the City may be bound.

Section 1.6 Governmental Consents and Approvals. No consent or approval by any governmental authority other than the City is required in connection with the execution and delivery by the City of this Agreement.

Section 1.7 Representations and Warranties of the Developer. In order to induce the City to enter into this Agreement, the Developer makes the following representations and warranties to the City:

Section 1.8 Organization. The Developer is duly organized, validly existing and in good standing under the laws of the State of Illinois, and is duly qualified to transact business in, and is in good standing under, the laws of each of the other states where the Developer is required to be qualified to do business.

Section 1.9 Power and Authority. The Developer has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings.

Section 1.10 Authorization and Enforceability. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate action on the part of the Developer. This Agreement is a legal, valid and binding agreement, obligation and undertaking of the Developer, enforceable against the Developer in accordance with its terms, except to the extent that such enforceability may be limited by law, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

Section 1.12 No Violation. Neither the execution nor the delivery or performance of this Agreement will conflict with, violate or result in a breach of any of the terms, conditions or

provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any Party to terminate or declare a default under any contract, agreement, lease, license or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree or other law to which the Developer is a party or by which the Developer or any of its assets may be bound.

Section 1.13 Consents. No consent or approval by any governmental authority or other person is required in connection with the execution and delivery by the Developer of this Agreement or the performance thereof by the Developer.

Section 1.14 No Proceedings or Judgments. There is no claim, action or proceeding now pending or to the best of its knowledge, threatened before any court, administrative or regulatory body, or governmental agency (a) to which the Developer is a party and (b) which will, or could, prevent the Developer's performance of its obligations under this Agreement.

Section 1.15 Disclaimer of Warranties. The City and the Developer acknowledge that none has made any warranties to the other, except as set forth in this Agreement. Nothing has come to the attention of the Developer to question the assumptions or conclusions or other terms and the Developer assumes all risks in connection with the practical realization of any such private development.

ARTICLE II

CITY OBLIGATIONS

Section 2.1. If the contingency set forth in 3.2 and 3.2(a) is met, the City shall construct, to City standards, an 8” sanitary sewer extension approximately 300’ south of an existing east-west 30” interceptor within the Willow Road right-of-way and stub a sanitary sewer service to

the northwest corner of the Site. If the contingencies called for in this Agreement are met, the City will accomplish the extension of the sanitary sewer line on or before December 1, 2004.

Section 2.2. If the contingency set forth in Section 3.2 and 3.3(a) is met, City will reserve one commercial incentive T.I.F. loan up to Sixty Thousand (\$60,000) Dollars with a 10% grant for the commercial retail building proposed on the Site at the northeast corner of the intersection of Willow Road and Anthony Drive, as provided for and pursuant to the TIF Redevelopment Incentive Program guidelines.

Section 2.3. If the contingency set forth in Section 3.1 and 3.3(b) is met, City will provide annual payment for a period of Five (5) years of an amount equal to a percentage of the increase in City and County portion of property taxes attributed to the improvements made to the Site, limited to the amount that would have been abated under Enterprise Zone criteria if such were applicable except for such parcel being located also in a TIF area. The Base Year for the Site will be the revenue year prior to the substantial completion of the development as outlined in Section 3.1 of this Agreement. Payment by the City will be made subject to the receipt of a copy of the tax bill and a written statement requesting the rebate submitted to City of Urbana Finance Department, Comptroller.

ARTICLE III

DEVELOPER'S OBLIGATIONS

Section 3.1. Developer shall substantially complete construction of a retail building of not less than 8,000 square feet (substantially similar to that shown in the Site Plan, Exhibit "B") at an estimated construction cost of not less than Six-hundred thousand (\$600,000) Dollars by January 1, 2005, on the property described in Exhibit "A". Further, Developer shall, promptly

upon substantially completing construction, occupy the building and operate Michelle's Bridal business at that location, during the term of this Agreement.

Section 3.2. Developer shall dedicate a portion of the Site to the City as Right-of-Way for the purpose of future improvements to the intersection at Willow Road and Anthony Drive as described in the attached drawing, Exhibit "C".

Section 3.3. Contingencies. The obligations of the City are wholly contingent upon:

- (a) The Developer having submitted a site plan and obtaining a building permit for the commercial project comprised of at least 8,000 square feet at an estimated construction cost of not less than Six-hundred thousand (\$600,000) Dollars by April 1, 2004; and
- (b) The Developer substantially completing construction of the commercial project by January 1, 2005.

ARTICLE IV

DEFAULTS AND REMEDIES

Section 4.1 Defaults - Rights to Cure. Failure or delay by either Party to timely perform any term or provision of this Agreement shall constitute a default under this Agreement. The Party who so fails or delays must, upon receipt of written notice of the existence of such default, immediately commence to cure, correct or remedy such default and thereafter proceed with diligence to cure such default. The Party claiming such default shall give written notice of the alleged default to the other Party. Except as required to protect against immediate, irreparable harm, the Party asserting a default may not institute proceedings against the other Party until thirty (30) days after having given such notice. If such default is cured within such thirty (30)

day period, the default shall not be deemed to constitute a breach of this Agreement. If the default is one which can not reasonably be cured within such thirty (30) day period, such thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of such default, so long as there is diligent proceeding to cure such default. If such default is cured within such extended period, the default shall not be deemed to constitute a breach of this Agreement. However, a default not cured as provided above shall constitute a breach of this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1 Entire Contract and Amendments. This Agreement (together with the Exhibits attached hereto) is the entire contract between the City and the Developer relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the City and the Developer, and may not be modified or amended except by a written instrument executed by the Parties.

Section 5.2 Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the City and the Developer and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to the City or the Developer, nor shall any provision give any third parties any rights of subrogation or

action over or against either the City or the Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

Section 5.3 Counterparts. Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

Section 5.4 Special and Limited Obligation. This Agreement shall constitute special and limited obligation of the City according to the terms hereof. This Agreement shall never constitute a general obligation of the City to which its credit, resources or general taxing power are pledged.

Section 5.5 Legally Valid and Binding. This Agreement shall constitute a legally valid and binding obligation of the City according to the terms hereof.

Section 5.6 Waiver. Any Party to this Agreement may elect to waive or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 5.7 Cooperation and Further Assurances. The City and the Developer each covenants and agrees that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the City or the Developer or other appropriate persons all and singular the rights, property and revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

Section 5.8 Notices. All notices, demands, requests, consents, approvals or other communications or instruments required or otherwise given under this Agreement shall be in

writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally or by telecommunication actually received, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows (unless another address is provided in writing):

To the Developer:

Michelle's Bridal Shoppe, Inc.
Box 44
Philo, IL 61864
502 South Vine Street
Urbana, Illinois 61801
Phone: (217) 684-2600
Fax: (217) 684-2636

To the City:

Bruce K. Walden, Chief Administrative Officer
City of Urbana, Illinois
400 South Vine Street
Urbana, Illinois 61801
Phone: (217) 384-2454
Fax: (217) 384-2426

With a copy to:

Legal Division
400 South Vine Street
Urbana, Illinois 61801
Phone: (217) 384-2464
Fax: (217) 384-2460

Section 5.9 Successors in Interest. This Agreement shall only be binding upon and inure to the benefit of the Parties hereto and their respectively authorized successors and assigns.

Section 5.10 No Joint Venture, Agency or Partnership Created. Nothing in this Agreement nor any actions of the Parties to this Agreement shall be construed by the Parties or any third person to create the relationship of a partnership, agency or joint venture between or among such Parties.

Section 5.11 Illinois Law. This Agreement shall be construed and interpreted under the laws of the State of Illinois.

Section 5.12 Costs and Expenses. If either Party defaults in the performance of its obligations hereunder, the Parties agree that the defaulting Party shall pay the non-defaulting Party's costs of enforcing the defaulting Party's obligations under this Agreement, including but not limited to attorneys' fees and expenses.

Section 5.13 No Personal Liability of Officials of City. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, officer, agent, employee or attorney of the City, in his or her individual capacity, and neither the members of the Corporate Authorities nor any official of the City shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution, delivery and performance of this Agreement.

Section 5.14 Repealer. To the extent that any ordinance, resolution, rule, order or provision of the City's code of ordinances or any part thereof is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed by their duly authorized officers as of the date set forth above.

CITY OF URBANA, ILLINOIS

By: _____
Mayor

Date: _____

(SEAL)

ATTEST:

City Clerk

MICHELLE'S BRIDAL SHOPPE, INC.

By: _____

Its: _____

Date: _____

ATTEST:

Notary Public

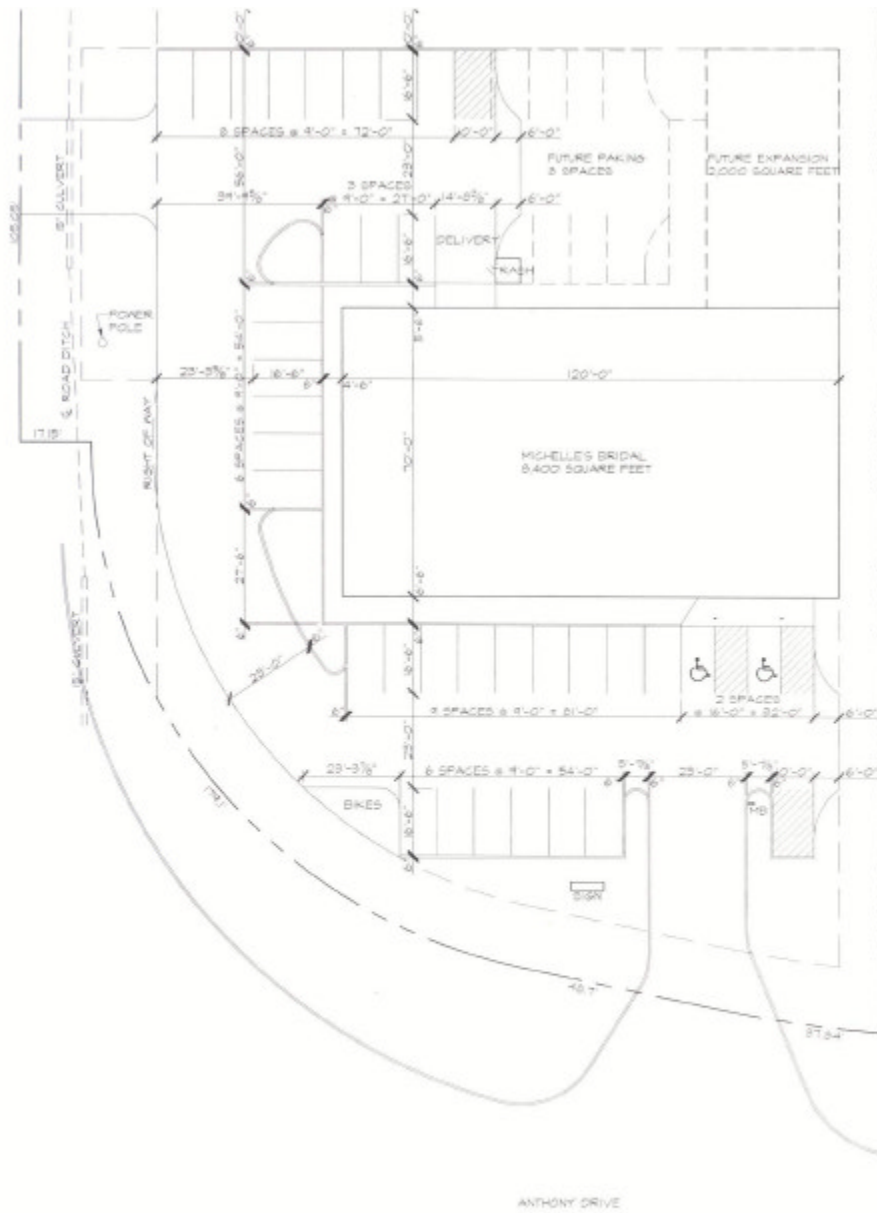
Date: _____

Exhibit A

Legal Description of Tract

Beginning at a point on the West line of Section 4, Township 19 North, Range 9 East of the Third Principal Meridian, which is 2,256.41 feet South of the Northwest corner thereof; thence East 208.00 feet; thence South 248.36 feet more or less to the intersection with the Northerly right of way line of FAI 74; thence Westerly along said right of way line along a curve to the right whose radius is 1,090 feet, 37.84 feet to the Point of Curvature of said curve; thence North 78° 05' West, 48.70 feet to the point of tangency of another curve to the right whose radius is 130.00 feet; thence along said curve to the right, 179.10 feet; thence West 17.15 feet to the West line of said Section 4; thence North along said West line 105.05 feet to the point of beginning, situated in Champaign County, Illinois.

Being the same tract described on a Deed recorded March 9, 1990 in Book 1677 at Page 627 in the Office of the Recorder of Deeds, Champaign County, Illinois.



ANTHONY DRIVE

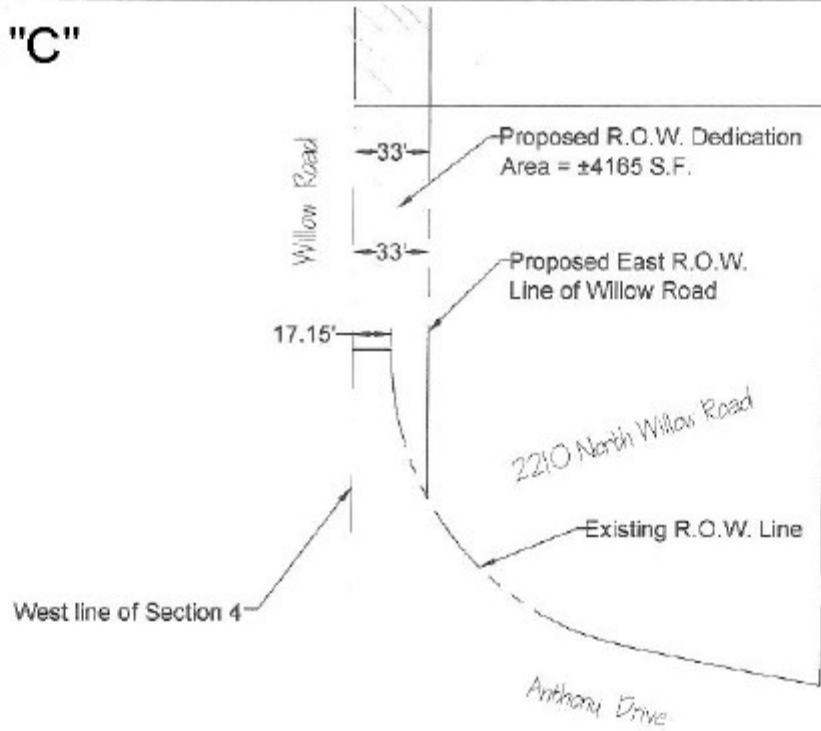


SITE PLAN
SCALE: 1"=20'-0"

Exhibit "B"

PARKING
REQUIREMENTS 54

Exhibit "C"

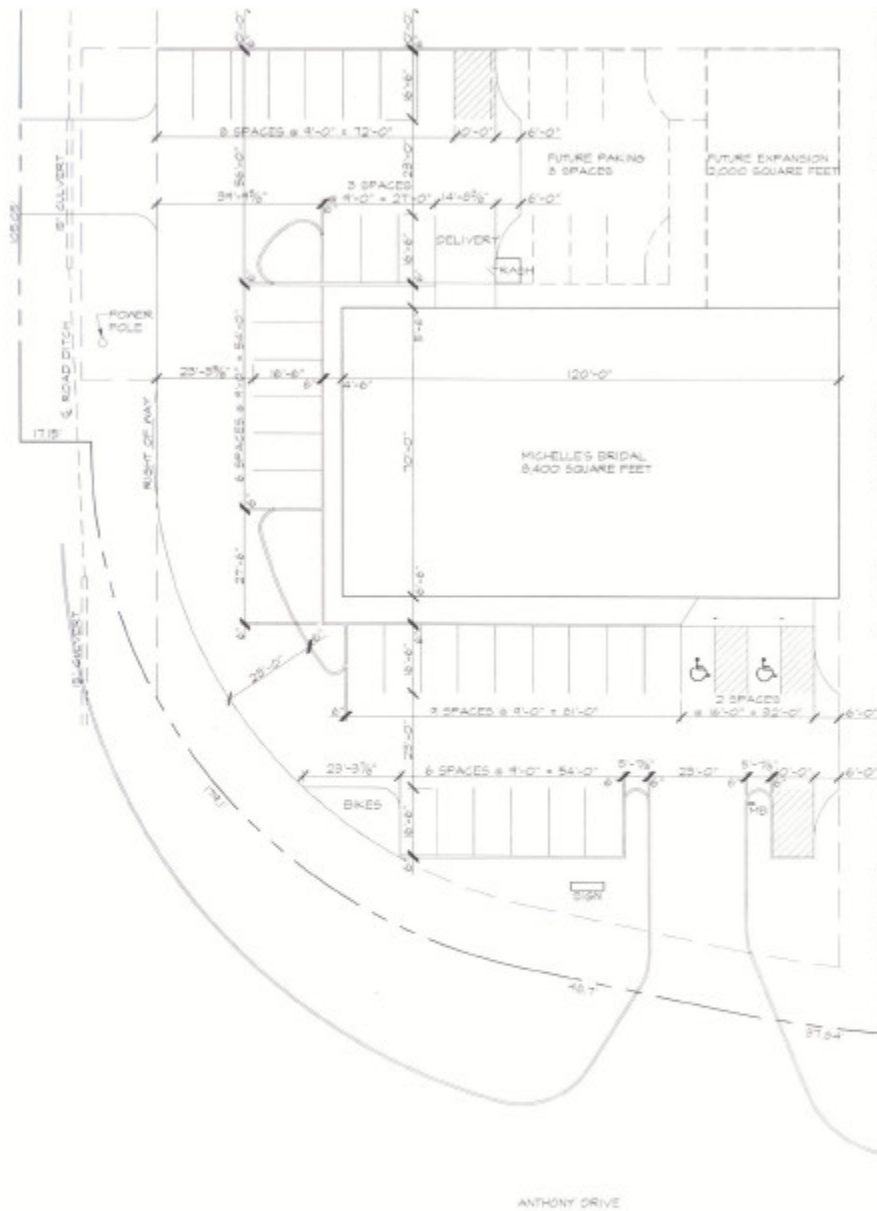


Proposed Right of Way Dedication
2210 N. Willow Road

Scale: 1" = 50'

City of Urbana
Public Works Department
Engineering Division
Date: 03/23/01 Drawn by: BWF





ANTHONY DRIVE



SITE PLAN
SCALE: 1"=20'-0"

Exhibit "E"

PARKING
REQUIREMENTS 74