



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

**m e m o r a n d u m**

**TO:**           **Laurel Prussing, Mayor**

**FROM:**       Elizabeth H. Tyler, AICP, Director, City Planner

**DATE:**       May 23, 2007

**SUBJECT:**   Plan Case No. 2039-M-07: Request to rezone an approximately 0.90-acre tract of property at 1714 E. Airport Road from IN, Industrial Zoning District to R-2, Single-Family Residential Zoning District

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**Introduction**

The petitioner, Gregory Reynolds, is requesting a rezoning of a part of his property at 1714 E. Airport Road. The petitioners are requesting a rezoning for that portion of the property within the City limits from IN, Industrial to R-2, Single Family Residential. The Reynolds property is comprised of two lots: one in the City of Urbana and one in unincorporated Champaign County. The property contains a house and an accessory structure that were built across the lot line by a previous owner so that the structures are partially in the city and partially in the county. The subject property is used as a single-family residence.

On May 24, 2007, the Urbana Plan Commission conducted a public hearing to consider the request and recommended by a vote of 4-2 that the Urbana City Council approve the rezoning.

It should be noted that two related cases are also being considered concurrently: one a variance case to allow an existing 3,500 square foot accessory building to exceed the 1,000 square foot limit, and the other case being an annexation agreement for that portion of the property currently in the County. The City Council previously considered and approved an annexation agreement for this property on July 17, 2006 (Ordinance No. 2006-07-098), however the agreement has been resubmitted for approval based on a corrected legal description. The intent of these three related cases is to bring the property into compliance and under one jurisdiction.

**Background**

The annexation agreement was necessitated by location of the structures crossing the lot line and the petitioner's wish to preserve their right to reconstruct the accessory structure should it ever need to be replaced. The petitioners have subsequently worked with the City to bring the subject property

into compliance with City of Urbana codes, and that joint effort includes obtaining a Zoning Map Amendment for the portion of the subject property in the City.

The annexation agreement stipulates that the portion of the subject property in Champaign County will be rezoned to R-2, Single-Family Residential, upon annexation. The portion of the subject property in the City is currently zoned IN, Industrial and the annexation agreement stipulated that this portion should be rezoned to City R-2, Single-Family Residential zoning.

The proposed rezoning will bring the property into conformance with the use regulations of the Urbana Zoning Ordinance which does not permit single family residences in the Industrial zoning district. The rezoning will correct the current split zoning on the property and prevent its continuation when the western portion is annexed into the City as R-2 Single Family Residential.

**Surrounding Properties**

The property is currently surrounded by a mixture of industrial (north of Airport Road) and residential (south of Airport Road) land uses. The 2005 Urbana Comprehensive Plan indicates the future land use for the area as Residential, with Regional Business along US Route 45.

<b>Direction</b>	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Comprehensive Plan - Future Land Use</b>
<b>Site</b>	West half - County AG-2, Agriculture East half - City IN, Industrial	Residential	Regional Business
<b>North</b>	IN, Industrial	Vacant	Regional Business
<b>East</b>	IN, Industrial	Agriculture	Residential
<b>South</b>	County AG-2, Agriculture, and County R-5, Mobile Home Park	Residential	Residential
<b>West</b>	County B-3, Highway Business	Mini-Warehouse	Regional Business

**Issues and Discussion**

**Rezoning 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 for evaluating the legal validity of a zoning classification for a particular property.

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

The subject property is currently surrounded by a mixture of industrial (north of Airport Road) and residential (south of Airport Road) land uses. The parcel immediately east of the property is zoned Industrial and is undeveloped (in agricultural use). The 2005 Urbana Comprehensive Plan indicates the future land use for the area as Residential, with Regional Business to the west along US Route 45. The portion of the subject property in Champaign County will be rezoned to R-2, Single-Family Residential upon annexation.

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

The subject property is already developed in a manner consistent with the proposed zoning, so there would be minimal impact on property values. The IN, Industrial Zoning District severely restricts residential uses and could negatively impact property values based on the current land use.

*It should be noted that the Urbana Planning Division staff are 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 subject property has already developed in a manner inconsistent with the existing zoning district. The intent of the proposed rezoning to the R-2 Single Family Residential zoning district is to ensure that the subject property is maintained by a standard that reflects the existing land use.

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

The subject property is located in an area that includes single-family residences. Further, the 2005 Urbana Comprehensive Plan designates the future land use of the subject property and the areas to the east and south as Residential. The rezoning will correct the current split zoning on the property and prevent its continuation when the western portion is annexed into the City as R-2 Single Family Residential. The proposed zoning would ensure that the appropriate regulations are applied to the subject property.

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

The subject property and the surrounding properties are already developed in an “urban” manner, which is consistent with the proposed zoning district.

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.*

The subject property is not currently vacant.

## **Summary of Findings**

On May 24, 2007 the Urbana Plan Commission voted 4-2 to adopt the following findings and recommended approval of the requested rezoning to the Urbana City Council:

1. The petitioners property is currently located in both unincorporated Champaign County and the City of Urbana. The subject of this case is that portion of the property which is located in the City limits and is currently zoned IN, Industrial.
2. That portion of the petitioner's property located in Champaign County is the subject of a pending annexation agreement. This agreement stipulates a number of approvals including a major variance and rezoning.
3. The proposed R-2, Single-Family Residential Zoning District would be consistent with the current land use of the property and surrounding area.
4. The proposed R-2, Single-Family Residential Zoning District would be consistent with the future land use designation of Residential stated in the 2005 Urbana Comprehensive Plan.
5. The rezoning will correct the current split zoning on the property and prevent its continuation when the western portion is annexed into the City as R-2 Single Family Residential. The proposed zoning would ensure that the appropriate regulations are applied to the subject property.
6. The proposed rezoning would not be detrimental to the public health, safety or general welfare.
7. The proposed rezoning appears to generally meet the LaSalle Case criteria.

## **Options**

The City Council has the following options in Case # 2039-M-07:

1. Approve the rezoning request; or
2. Deny the rezoning request. If the City Council elects to do so, the Council should articulate findings supporting its denial.

## **Recommendation**

Based on the criteria outlined herein, at their May 24, 2007 hearing the Plan Commission voted 4-2 to forward the rezoning request in Case # 2039-M-07 to the Urbana City Council with a recommendation for **APPROVAL**. Staff concurs with this recommendation.

Prepared by:

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Paul Lindahl, Planner I

cc: Jeff Wampler  
Erwin, Martinkus & Cole  
P.O. Box 1098  
Champaign, IL 61824-1098

Greg Reynolds  
1714 E. Airport Road  
Urbana, IL 61802

Attachments:

Draft Ordinance Approving a Rezoning  
Draft Minutes of April 19 and May 24, 2007 Plan Commission Hearing  
Exhibit A: Location Map  
Exhibit B: Zoning Map  
Exhibit C: Existing Land Use Map  
Exhibit D: Future Land Use Map  
Exhibit E: Aerial Map  
Exhibit F: Reynolds Annexation Agreement (short)  
Exhibit G: Site Requirements Map

H:\Planning Division\001-ALL CASES(and archive in progress)\02-PLAN Cases\2007\2039-M-07, Reynolds (Rezoning)\Stuff - CC - 06-04-07\Reynolds rezoning CC Memo v1.doc

ORDINANCE NO. 2007-06-049

**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF URBANA, ILLINOIS**

(Rezoning of 1714 E. Airport Road from IN, Industrial to R-2, Single and Two-Family Residential. - Plan Case 2039-M-07)

WHEREAS, after due publication, a public hearing was held by the Urbana Plan Commission on May 24, 2007 concerning the petition filed in Plan Case No. 2039-M-07; and

WHEREAS, the requested rezoning is consistent with the goals and objectives and future land use maps of the City of Urbana 2005 Comprehensive Plan; and

WHEREAS, the requested rezoning is consistent with the La Salle criteria; and

WHEREAS, the Urbana Plan Commission voted 4 ayes and 2 nay to forward the case to the Urbana City Council with a recommendation to approve the rezoning request of the properties herein described below from IN, Industrial to R-2, Single and Two-Family Residential; and

WHEREAS, the findings of the Plan Commission indicate that approval of the rezoning request would promote the general health, safety, morals, and general welfare of the public.

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

Section 1. The Zoning Ordinance and Zoning Map of the City of Urbana, Illinois, are herewith and hereby amended to change the zoning classification of the following described area from IN, Industrial to R-2, Single and Two-Family Residential.

LEGAL DESCRIPTION:

Part of the Southeast Quarter of Section 33, Township 20 North, Range 9 East of the Third Principal Meridian in Champaign County, Illinois, more particularly described as follows:

Commencing 72 feet East of the Southwest corner of the Southeast Quarter of the Southeast Quarter of said Section 33, thence North 605 feet; thence East 65 feet; thence South 605 feet and thence West 65 feet to the Point of Beginning, in Champaign County Illinois.

Commonly known as: 1714 E. Airport Road, Urbana, IL 61802

PIN No.: 91-15-33-476-011

Section 2. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

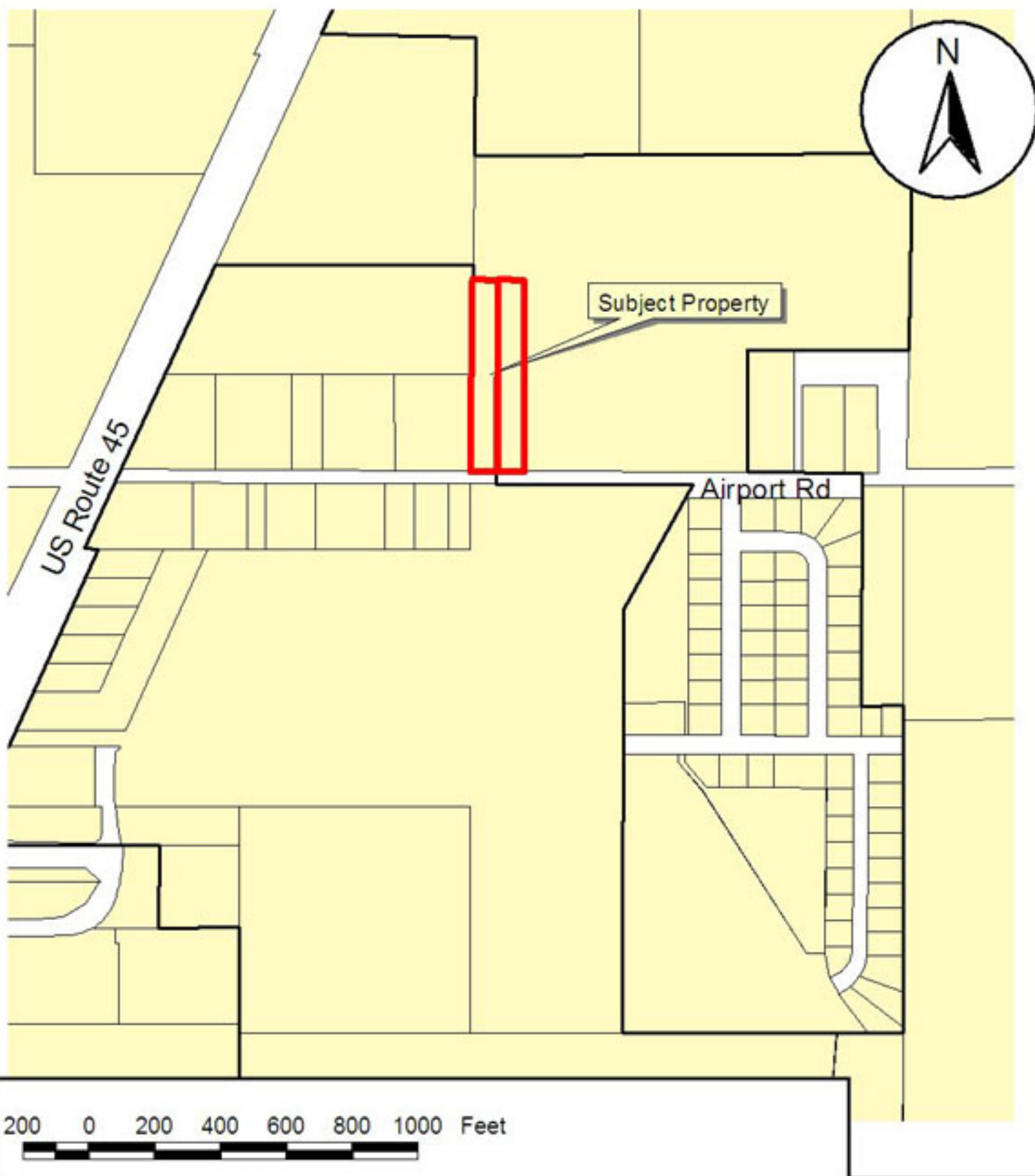
I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2007, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled: "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF URBANA, ILLINOIS (Rezoning of 1714 E. Airport Road from IN, Industrial to R-2, Single and Two-Family Residential. - Plan Case 2039-M-07), which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2007, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.



# Exhibit A: Location Map

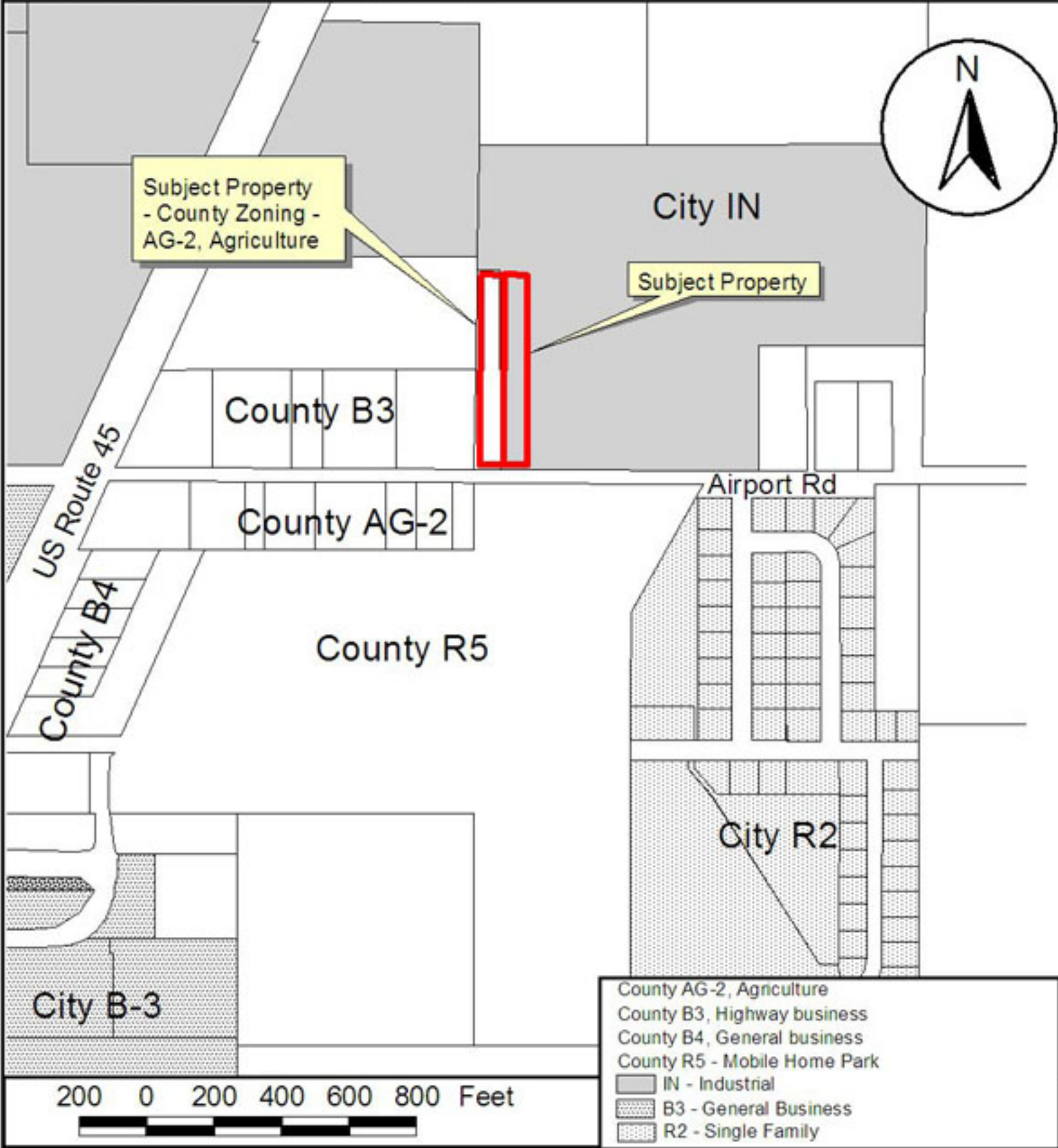


Plan Case: 2039-M-07  
Subject: Rezoning IN, Industrial to R2, Single Family Residential

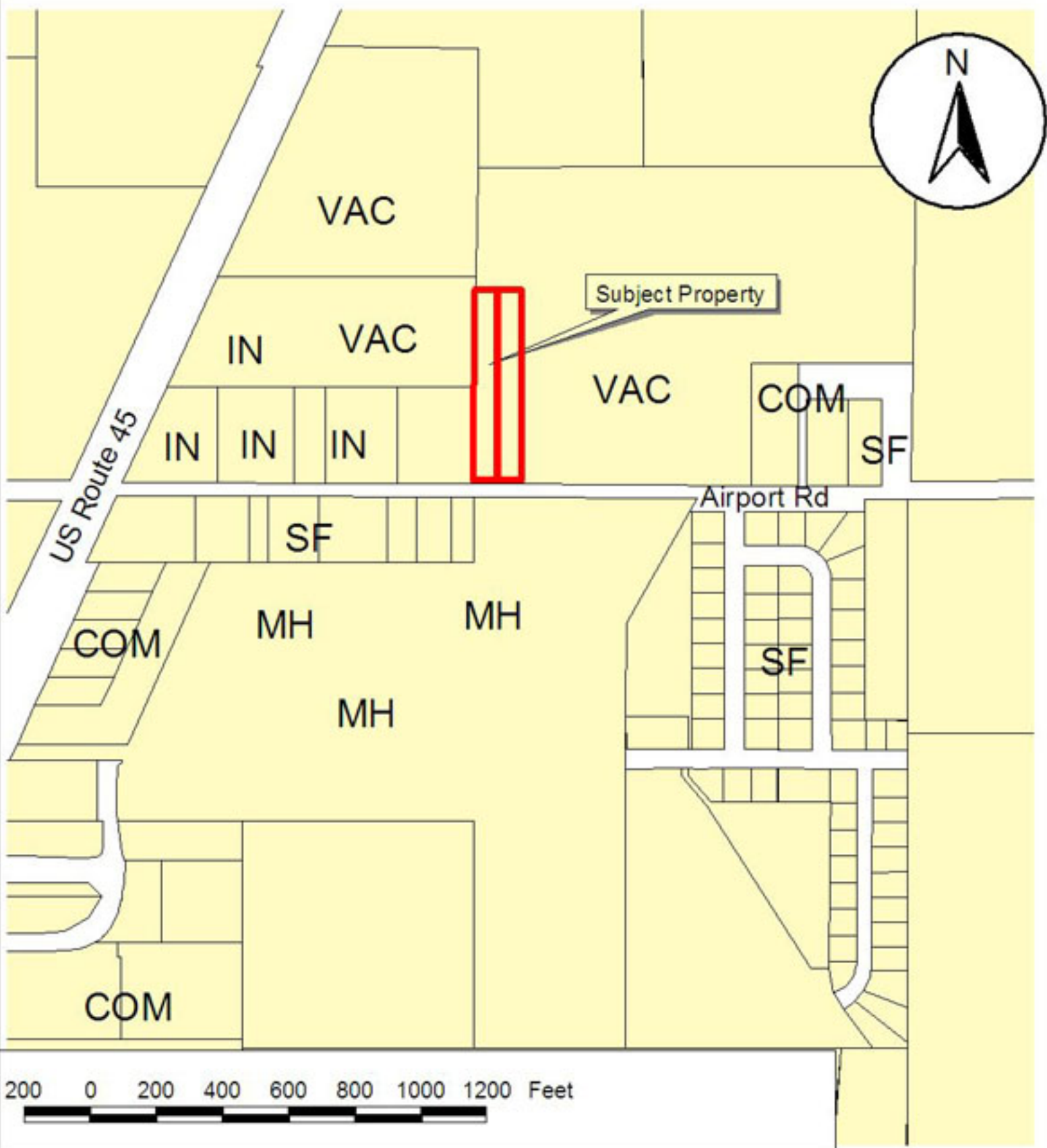
ZBA Case: 2007-MAJ-2  
Subject: A Major Variance request for a 3,500 square foot accessory structure  
Petitioner: Greg Reynolds  
Location: North of Airport, East of US Route 45

Prepared 03/29/2007 by Community Development Services - mhw

# Exhibit B: Zoning Map



# Exhibit C: Existing Land Use Map



Plan Case: 2039-M-07  
Subject: Rezoning IN, Industrial to R2, Single Family Residential

ZBA Case: 2007-MAJ-2  
Subject: A Major Variance request for a 3,500 square foot accessory structure  
Petitioner: Greg Reynolds  
Location: North of Airport, East of US Route 45  
Prepared 03/29/2007 by Community Development Services - mhw

SF - Single Family  
IN - Industrial  
COM - Commercial  
MH - Mobile Homes  
VAC - Vacant

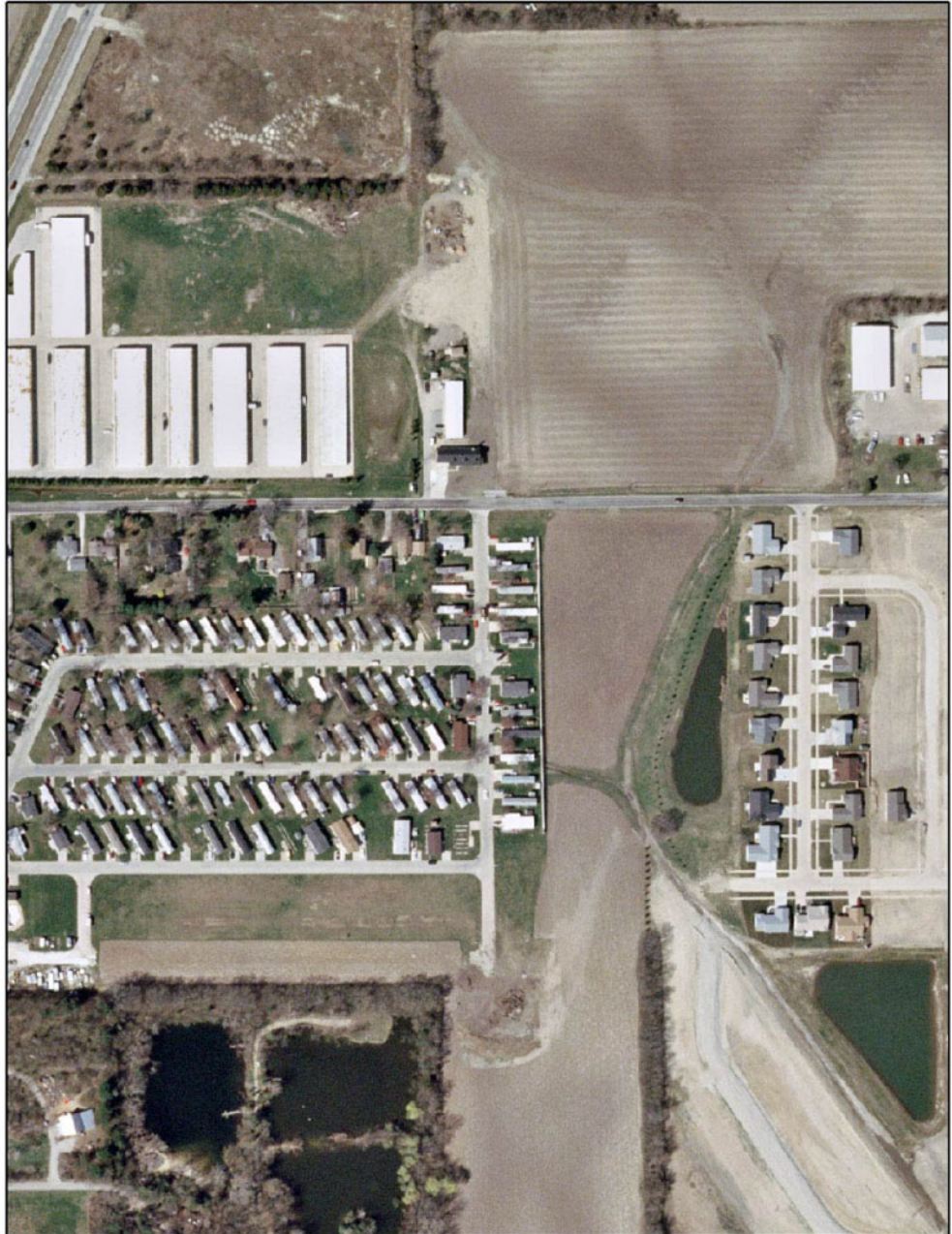


# Exhibit D: Future Land Use Map



Plan Case: 2039-M-07  
Petitioner: Gregory Reynolds  
Location: North of Airport, East of US Route 45  
Description: Rezone 1714 E. Airport to R-2, Single-Family Residential

# Exhibit E: Aerial Map



Plan Case: 2039-M-07  
Petitioner: Gregory Reynolds  
Location: North of Airport, East of US Route 45  
Description: Rezone 1714 E. Airport to R-2, Single-Family Residential

Prepared 3/29/2007 by Community Development Services - mhw

# **Annexation Agreement**

(1714 East Airport Road / Gregory and Denise Reynolds)

THIS Agreement is made and entered into by and between the **City of Urbana**, Illinois, (hereinafter sometimes referred to as the "Corporate Authorities" or the "City") and **Gregory and Denise Reynolds** (hereinafter referred to as the "Owners"). The effective date of this Agreement shall be as provided in Article III, Section 6.

## **WITNESSETH:**

WHEREAS, this Agreement is made pursuant to and in accordance with the provisions of Section 11-15.1-1 et seq., of the Illinois Municipal Code (65 ILCS 5/11-15.1-1); and

WHEREAS, Gregory and Denise Reynolds are the Owners of record of a certain parcel of real estate located at 1714 East Airport Road totaling approximately 1.80 acres, the legal description of which real estate is set forth in Exhibit "A" attached hereto and referenced herein as "the tract"; and

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

WHEREAS, the tract is located within the Champaign County AG-2, Agricultural Zoning District; and

WHEREAS, the Corporate Authorities and the Owners find it necessary and desirable that the tract be annexed to the City with a zoning classification of R-2, Single-Family Residential, under the terms and provisions of the Urbana Zoning Ordinance in effect upon the date of annexation, as amended, and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Corporate Authorities find annexation of the tract as described herein reflects the goals, objectives and policies set forth in the City's 2005 Urbana Comprehensive Plan, as amended from time to time; and

WHEREAS, the Owners desire to have the aforementioned real estate annexed to the City of Urbana upon certain terms and conditions hereinafter set forth in this Agreement.

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:**

**ARTICLE I. REPRESENTATIONS AND OBLIGATIONS OF THE OWNERS**

The Owners agree to the following provisions:

**Section 1. Ownership and Annexation:**

- (a) The Owners represent that the Owners are the sole record Owners of the tract described in Exhibit A and that the Owners shall, within thirty (30) days of the approval of this agreement cause the tract to be annexed to the City of Urbana by filing a legally sufficient annexation petition with all required signatures thereon, all in accordance with Illinois Statutes. Until annexation of the subject tract occurs, the Owners shall require that any persons intending to reside thereon, whether as tenants or owners, shall, prior to residing thereon, irrevocably agree in writing to sign, join in, and consent to any petition for annexation of the subject tract. The Owners shall file such written agreement with the City Clerk within thirty (30) days of the signing of such. The Owners shall not file a petition for the disconnection of the tract from the City.
- (b) The Owners further agree that the substance of this Section of the Annexation Agreement shall be included in any sales contract for the sale of any portion of the subject tract. If the subject tract is to be platted for subdivision, the Owners agree that the substance of this provision regarding annexation shall be included in the subdivision covenants and such will constitute a covenant running with the land.
- (c) The Owners agree that if the Owners fail to include the substance of Section 1(a) of this Agreement in sales contracts or subdivision covenants, as provided herein, and if said annexation is delayed or contested by subsequent owner(s) as a result, the Owners shall be liable to the City for all real estate taxes and other taxes that would have been due to the City had annexation been able to proceed as outlined herein. The Owners agree for themselves, successor and assigns, and all other persons intended herein to be obligated to consent to annexation, to cooperate in signing or joining in any petition for annexation for the subject tract and that mandamus would be an appropriate remedy in the event of refusal so to do, and, if the City has to resort to Court proceedings to enforce this obligation, the City shall be entitled to recover reasonable attorney's fees. The parties agree that nothing in this section shall preclude the voluntary annexation of the subject tract or any portion thereof earlier than would otherwise be required.

**Section 2. Zoning:** The Owners acknowledge that upon annexation, the tract will be rezoned from County AG-2, Agricultural to City R-2, Single-Family Residential. The Owners agree that, unless changed upon the initiative of the Owners, the said City zoning classification for said tract shall remain in effect for the term of this Agreement, subject to the right of the Corporate Authorities to amend the Zoning Ordinance text even if such amendment affects the tract. Furthermore, the Owners agree to abide by all applicable development regulations existing at the time of annexation.

**Section 3. Adjacent Territory Rezoning:** The Owners agree to submit an application to rezone the portion of the Owners' property currently located within the corporate limits (see Exhibit C) from City IN, Industrial to City R-2, Single-Family Residential within 90 days of the approval of this agreement.

**Section 4. Subdivision:** The Owners agree to prepare and record a minor subdivision plat per the Urbana Subdivision and Land Development Code within 90 days of the approval of this Agreement. The minor subdivision plat shall combine the portion of the Owners' land in unincorporated Champaign County (west half) with the portion within the corporate limits (east half) to create a single lot (see Exhibit C). The Owners further agree to dedicate 40 feet of right-of-way along Airport Road as part of the minor subdivision plat and include a deferral for sidewalk construction on the minor subdivision plat.

**Section 5. Accessory Structure Variance:** The Owners agree to submit an application for a Major Variance to permit an increase in the maximum size of an accessory structure up to 3,500 square feet per the Urbana Zoning Ordinance within 90 days of the approval of this Agreement. The Major Variance application shall pertain to the portion of the accessory structure located within the corporate limits (see Exhibit C).

## **ARTICLE II. REPRESENTATIONS AND OBLIGATIONS OF THE CORPORATE AUTHORITIES**

The Corporate Authorities agree to the following provisions:

**Section 1. Agreement to Annex:** The Corporate Authorities agree to annex said tract subject to the terms and conditions outlined in this Agreement, when properly and effectively requested to do so, by submission of a legally sufficient petition from the Owners, by enacting such ordinances as may be necessary and sufficient to legally and validly annex said tract to the City.

**Section 2. Zoning:** The Corporate Authorities agree that the tract will be zoned City R-2, Single-Family Residential upon annexation and as defined in the City of Urbana Zoning Ordinance as such exists at the time of annexation of the tract. The Corporate Authorities agree that all applicable development regulations existing at the time of annexation will apply to said tract. Furthermore, although the Corporate Authorities agree not to rezone the property during the term of this Agreement without a rezoning petition executed by the property Owners requesting said change, the Corporate Authorities reserve the right to amend the Zoning Ordinance text even if such amendment affects the property. The



Corporate Authorities further agree that the granting of the Zoning Map Amendment would be consistent with the LaSalle Criteria established by the Illinois Supreme Court in *LaSalle National Bank v. The County of Cook*:

- a. The existing land uses and zoning of the nearby property.
- b. The extent to which property values are diminished by the restrictions of the ordinance.
- c. The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.
- d. The relative gain to the public as compared to the hardship imposed on the individual property owner.
- e. The suitability of the subject property for the zoned purposes.
- f. The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.

**Section 3. Adjacent Territory Rezoning:** The Corporate Authorities agree to consider approval of a Zoning Map Amendment for the portion of the Owners' property in the corporate limits from IN, Industrial to R-2, Single-Family Residential, as shown in Exhibit C, in order to provide for consistent zoning of the Owners' property.

**Section 4. Subdivision:** The Corporate Authorities agree to approve a minor subdivision plat per the Urbana Subdivision and Land Development Code to combine the portion of the Owners' land in unincorporated Champaign County (west half) with the portion within the corporate limits (east half) to create a single lot (see Exhibit C), including a deferral for sidewalk construction along the north side of Airport Road adjacent to the Owners' property. The City Engineer shall not require sidewalk construction until such time as a sidewalk exists on adjacent properties on either side of the tract.

**Section 5. Accessory Structure Variance:** The Corporate Authorities hereby grant a Variance to allow the portion of the 3,500 square foot accessory structure located outside the corporate limits, in excess of the 1,000 square feet permitted by the Zoning Ordinance, as illustrated in Exhibit B. This additional size will permit the Owners to maintain the accessory structure, which was constructed prior to any of the Owners' land incorporating into the City of Urbana. Until the Major Variance is approved, the accessory structure shall be considered legally non-conforming. The Corporate Authorities further agree that the granting of this variance is consistent with the established criteria identified in Section XI-3 of the Urbana Zoning Ordinance, in that the variance:

- a. will not serve as a special privilege because the variance requested is due to special conditions and circumstances relating to the land or structure involved or

to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district;

- b. was not the result of a situation or condition having been knowingly or deliberately created by the Owner or Developer;
- c. will not alter the essential character of the neighborhood;
- d. will not cause a nuisance to adjacent property;
- e. represents, generally, the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.
- f. is the result of practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land.

**Section 6. Adjacent Territory Accessory Structure Variance:** The Corporate Authorities agree to consider approval of a Major Variance to allow the portion of the 3,500 square foot accessory structure located within the corporate limits, in excess of the 1,000 square feet permitted by the Zoning Ordinance, as illustrated in Exhibit C. This additional size will permit the Owners to maintain the accessory structure, which was constructed prior to any of the Owners' land incorporating into the City of Urbana.

### **ARTICLE III: GENERAL PROVISIONS**

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

If this Agreement imposes any obligation, restraint, or burden (hereinafter called collectively "obligation") on the Owners, 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 term of this Agreement unless specific terms are expressly made binding beyond the term of this Agreement. Furthermore, the terms herein are hereby expressly made binding upon all heirs, grantees, lessee, executors, assigns and successors in interest of the Owners as to all or any part of the tract, and are further

expressly made binding upon said City and the duly elected or appointed successors in office of its Corporate Authorities.

**Section 3. Binding Agreement upon parties:** The Corporate Authorities and Owners agree that neither party will take no action or omit to take action during the term of this Agreement which act or omission as applied to the tract would be a breach of this Agreement without first procuring a written amendment to this Agreement duly executed by both the Owners and the City.

**Section 4. Enforcement:** The Owners and Corporate Authorities agree and hereby stipulate that either party to this Agreement may, by civil action, mandamus, action for writ of injunction or other proceeding, enforce and compel performance of this Agreement or declare this Agreement null and void in addition to other remedies available. Upon breach by the Owners, the City may refuse the issuance of any permits or other approvals or authorizations relating to development of the tract.

**Section 5. Severability:** If any provision of this Agreement is rendered invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect even without the invalid provision.

**Section 6. Contingent Agreement.** This Agreement shall be contingent upon the successful execution (a.) of the obligations set forth in Articles I and II, and (b.) of all necessary Agreements and approvals. If any of these contingencies are not fulfilled, then this Annexation Agreement shall be null and void. In all cases requiring the approval of the Corporate Authorities, such Corporate Authorities shall not unreasonably withhold such approval.

**Section 7. Effective Date:** The Corporate Authorities and Owners 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**  
**City of Urbana:**

**Owner:**

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

\_\_\_\_\_  
Gregory Reynolds

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Denise Reynolds

\_\_\_\_\_  
Date

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
Phyllis D. Clark  
City Clerk

\_\_\_\_\_  
Notary Public

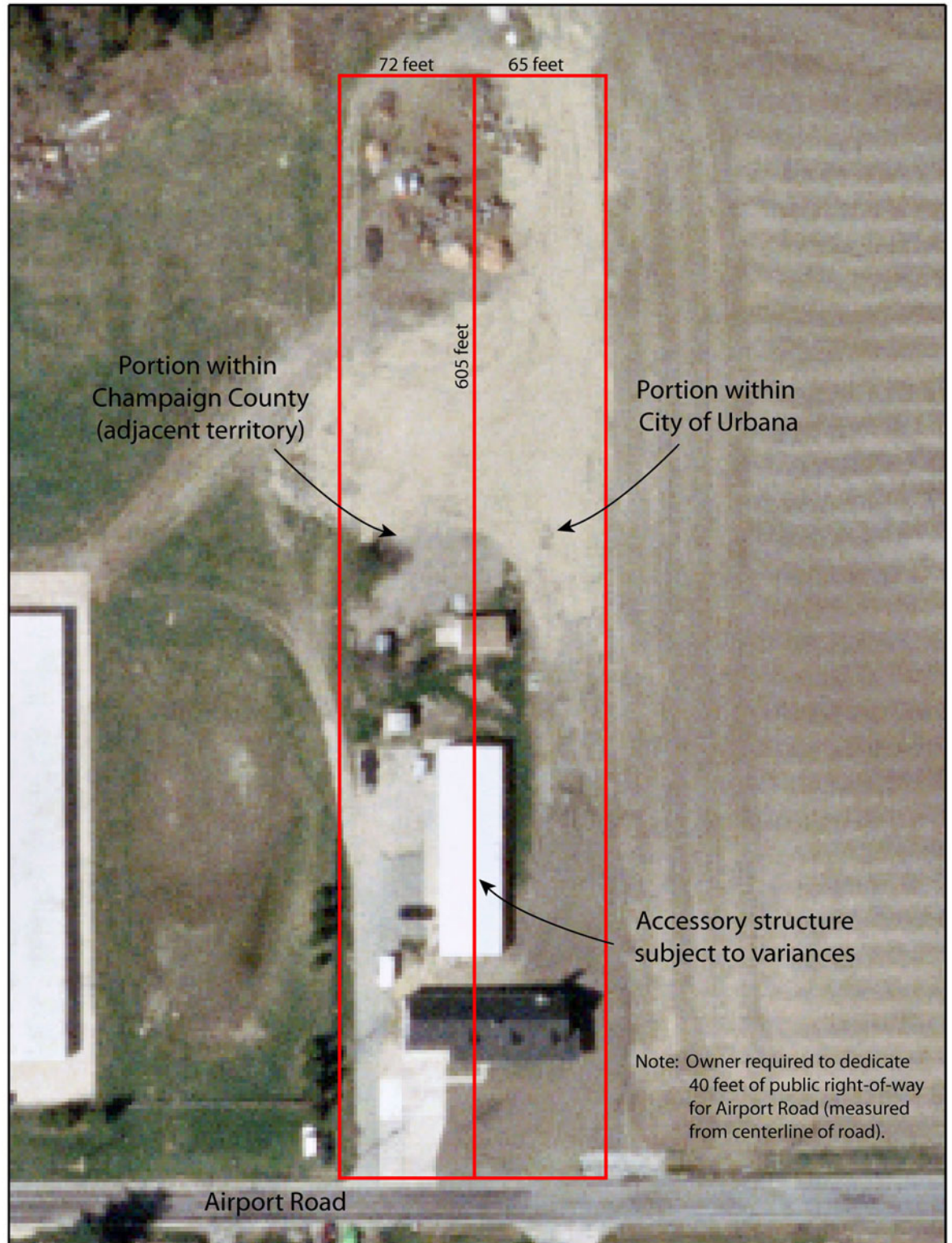
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Exhibits attached and made a part of this Agreement:

- Exhibit A: Legal Description
- Exhibit B: Location Map
- Exhibit C: Site Requirements Map

# Exhibit G: Site Requirements Map



**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**DRAFT**

**DATE:** May 24, 2007

**TIME:** 7:30 P.M.

**PLACE:** Urbana City Building  
400 South Vine Street  
Urbana, IL 61801

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**MEMBERS PRESENT:** Tyler Fitch, Ben Grosser, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant, Don White

**MEMBERS EXCUSED:** Jane Burris, Lew Hopkins, James Ward

**STAFF PRESENT:** Robert Myers, Planning Manager; Paul Lindahl, Planner I; Teri Andel, Planning Secretary

**OTHERS PRESENT:** None

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**NEW PUBLIC HEARINGS**

**Annexation Case No. 2005-A-10: Annexation agreement for an approximately 1.80-acre tract of property at 1714 East Airport Road/ Gregory and Denise Reynolds**

[see below]

**Plan Case No. 1903-M-04: A request to rezone an approximately 1.80-acre tract of property at 1714 East Airport Road from Champaign County AG-2, Agriculture Zoning District, to City R-2, Single-Family Residential Zoning District upon annexation**

[see below]

**Plan Case No. 2039-M-07: A request to rezone an approximately 0.90-acre tract of property at 1714 East Airport Road from IN, Industrial Zoning District, to R-2, Single-Family Residential Zoning District**

Chairman Pollock asked if the staff report for these three cases could be combined since they involve the same property. With no objections, Paul Lindahl, Planner I, presented all three cases to the Plan Commission. He began by talking about the proposed annexation agreement including the rezoning request for the portion of the property that is outside of the City limits. He stated that the Plan Commission and the City Council have already approved these two

requests, but due to error with the legal description, staff is requesting the Plan Commission and the City Council re-hear and reconsider the requests again. He described the property noting the current and proposed zoning. He briefly talked about the major variance request for the accessory structure that is also part of the annexation agreement, which was recommended for approval to the City Council by the Zoning Board of Appeals. He summarized staff findings and read the options of the Plan Commission for the proposed annexation agreement and rezoning requests. He presented staff's recommendation, which is as follows:

*Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Plan Commission forward Annexation Case No. 2005-A-10 and Plan Case No. 1903-M-04 to the Urbana City Council with a recommendation for approval.*

Mr. Lindahl continued his presentation by talking about the rezoning request for the portion of the subject property that is within the City limits. This case was reviewed by the Plan Commission in April 2007, and they recommended approval to the City Council. Again, staff is requesting the Plan Commission to rehear and reconsider the request due to the error in the legal description. None of the background information has changed. He summarized staff findings for the rezoning request and read the options of the Plan Commission for Plan Case No. 2039-M-07. He presented staff's recommendation, which is as follows:

*Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Plan Commission forward Plan Case No. 2039-M-07 to the Urbana City Council with a recommendation for approval.*

Ms. Stake inquired about the variance request that is part of the annexation agreement. How far in excess of 1,000 feet would the variance be for? Mr. Lindahl replied that the accessory structure is about 3,500 square feet. He believed the variance for each half of the building structure would be about 75%. The petitioners would not be able to rebuild the structure any larger than what it currently is.

Ms. Stake asked what type of building is currently there. Mr. Lindahl answered by saying that it is a pole barn/garage. He pointed out that the petitioner has a number of trucks and other equipment that he stores in the building. He also has a workshop in the structure. The petitioner says that he does not use the structure for his business. It is for personal storage.

Mr. Grosser asked if the Zoning Board of Appeals approved the variance request even though the Plan Commission recommended denial. Mr. Lindahl explained that the Zoning Board of Appeals recommended approval to the City Council for a major variance for the half of the structure that is in the City limits. He believed that the Plan Commission previously recommended denial to the City Council for the major variance for the half of the structure that is outside City limits and is part of the annexation agreement, but he would need to check the minutes to ensure that their recommendation did not include the other half as well. He recalled

that the Plan Commission's position was that the existing building exceeds the City's regulations, and it should not have been built this way.

Mr. Grosser questioned whether the Plan Commission has the ability to make recommendations on the variance requests. Mr. Lindahl said yes. When an annexation agreement includes a rezoning request, then City staff will present it to the Plan Commission. If it only includes a variance request and not a rezoning request, then it will go directly to the City Council to consider. The Plan Commission has the option in this case to recommend whether the major variance is granted or not, and the City Council will take their recommendation into consideration. Last year, when the City Council considered the Plan Commission's recommendation for the proposed annexation agreement, they decided that the major variance should be part of the annexation agreement.

Mr. Grosser inquired whether the major variance would only be for the current property owner or would it be for the property and perpetuity. Mr. Lindahl stated that the major variance would be for the property in perpetuity. It would apply to the pole barn/garage only, and the property owner would not be able to expand it.

Ms. Stake wondered what land uses and/or zoning surrounded the subject property. Mr. Lindahl mentioned that to the west, there is a detention swale and mini-warehouses. The pole barn/garage is much smaller than the warehouse buildings. To the immediate east, there is vacant property, which is currently being farmed. The City's Comprehensive Plan shows the area to be residential even though it is currently zoned Industrial. He also pointed out that the subject property is large and is about 1.8 acres. The pole barn/garage would not be close to the property line.

Ms. Stake asked if the structure would be a hindrance to the future residential area. Mr. Lindahl did not see how it could be a hindrance. The structure is fairly far from the property line, and there is ample opportunity for the petitioner to plant trees or for a future developer to plant trees as a screen.

With no audience and no further questions for staff, Chair Pollock closed the public portion of the meeting and opened it up for Plan Commission discussion.

Mr. White moved that the Plan Commission forward all three cases to the City Council with a recommendation for approval. Ms. Upah-Bant seconded the motion.

Mr. Grosser stated that he has not changed his mind about the major variance. He does not feel it is appropriate. The structure is gigantic compared to the single-family home that is on the property. He moved to amend the motion on the floor to add a recommendation of denial for the major variance. Ms. Stake seconded the motion to amend.

Ms. Upah-Bant questioned if the property owner would have to tear down the existing structure if the amendment passed. Mr. Lindahl explained that the existing structure would become non-conforming. Without the major variance, if the barn burns down, then the property owner would not be able to rebuild the structure to the current size. They could rebuild based on the R-2



zoning. With the variance, the property owner would be able to rebuild the structure to its current size, but would not be able to expand it any larger.

Mr. Grosser explained his reason for the amendment. The City's Comprehensive Plan shows residential to the east and to the south of the subject property, and it is possible for residential to wrap around the subject property. He did not feel that the pole barn/garage type structure fits into the Comprehensive Plan.

Mr. White inquired as to whether the petitioner would withdraw from the annexation if their variance request is not passed. Mr. Lindahl said yes. The variance is one a condition for the petitioners.

Chair Pollock called for a hand vote on the motion to amend. It failed by a vote of 2 to 4. Roll call on the main motion was as followed:

Mr. Fitch	-	Yes	Mr. Grosser	-	No
Mr. Pollock	-	Yes	Ms. Stake	-	No
Ms. Upah-Bant	-	Yes	Mr. White	-	Yes

The motion was passed by a roll call vote of 4 to 2. Mr. Myers noted that these three cases would go before City Council on June 4, 2007.

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**APPROVED**

**DATE:** April 19, 2007

**TIME:** 7:30 P.M.

**PLACE:** Urbana City Building  
400 South Vine Street  
Urbana, IL 61801

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**MEMBERS PRESENT:** Jane Burris, Tyler Fitch, Ben Grosser, Lew Hopkins, Michael Pollock, Bernadine Stake, James Ward, Don White

**MEMBERS EXCUSED:** Marilyn Upah-Bant

**STAFF PRESENT:** Robert Myers, Planning Manager; Paul Lindahl, Planner I; Teri Andel, Planning Secretary

**OTHERS PRESENT:** Luke Bujarski, Th. Catcas, Bjorg Holte, Rashi Jain, Sang Lee, Joseph Leure, Vineeta Mathur, Danielle Quivey, Ben Shumaker, Emily Smith, Brent Solsasky, Kevin Stewart, Susan Taylor, Jeff Wampler, Matt Ziska

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**NEW PUBLIC HEARINGS**

**Plan Case No. 2039-M-07: Request by Greg Reynolds to rezone an approximately 0.90-acre tract of property at 1714 East Airport Road from IN, Industrial Zoning District, to R-2, Single-Family Residential Zoning District.**

Paul Lindahl, Planner I, presented this case to the Plan Commission. He began with a brief background of the history of the proposed site. He noted the current zoning and land uses of the proposed site and of the surrounding properties. He reviewed the LaSalle National Bank criteria as it relates to the proposed rezoning request. He summarized staff findings, read the options of the Plan Commission and presented staff's recommendation, which is as follows:

*Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Plan Commission forward Plan Case No. 2039-M-07 to the Urbana City Council with a recommendation for approval.*

Mr. White inquired about the debris and junk on the north side of the two properties. Mr. Lindahl replied that most of the debris and junk is on the northwest property of the site, which is currently not in the City. Once it is annexed and the lots are combined, the City will address any needs for the property owners to meet City building and environmental codes. He pointed out that the photograph in the packet of information is about two years old, so it does not really speak to what is there now.

Mr. Grosser recalled that the Plan Commission had recommended to City Council that the annexation agreement did not include the ability for the property owners to rebuild the accessory structure in the event of the loss of the structure. Mr. Lindahl stated that he would have to reread the annexation agreement to review its final form, but he thought that in the event of a loss, the property owners would be able to rebuild the structure. However, they would not be allowed to expand it.

Ms. Stake asked what the reason would be to not allow the property owners to expand the accessory structure. Mr. Lindahl answered by saying that it is because it would be annexed as a non-conforming use.

With no further questions from the Plan Commission for City staff, Chair Pollock opened the public hearing to members of the audience.

Jeff Wampler, Attorney for the petitioner, mentioned that the photograph was taken several years ago. The wood (not junk) has been mostly, if not all, removed since then. He also stated that as part of the annexation agreement, in the event of a loss of the accessory structure (such as a fire or destruction), it could be rebuilt but not enlarged.

Ms. Stake moved that the Plan Commission forward Plan Case No. 2039-M-07 to the City Council with a recommendation for approval. Mr. Hopkins seconded the motion. Roll call was taken and was as follows:

Mr. White	-	Yes	Mr. Ward	-	Yes
Ms. Stake	-	Yes	Mr. Pollock	-	Yes
Mr. Hopkins	-	Yes	Mr. Grosser	-	Yes
Mr. Fitch	-	Yes	Ms. Burris	-	Yes

The motion was approved by unanimous vote. Robert Myers noted that this case would go before City Council on May 7, 2007.