



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

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

**TO:** Laurel Lunt Prussing, Mayor

**FROM:** Elizabeth H. Tyler, Ph.D., FAICP, Director

**DATE:** January 8, 2014

**SUBJECT:** **Annexation Agreement for Wildberry Acres & Annexation Petition for 2911 East Anthony Drive (Annexation Case 2013-A-03)**

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### **Introduction**

At its last Committee meeting, the City Council discussed the attached petition and ordinance to annex 2911 East Anthony Drive in Wildberry Acres Subdivision into the Urbana corporate limits. (See Exhibit A.) The petitioner is Sandra Hamilton. The area to be annexed is a single-family lot which is 41,338 square feet in area, along with 10,864 square feet of the adjacent Anthony Drive right-of-way. There is also 1.425 acres of Interstate 74 right-of-way that will be annexed with the property. The petition fulfills an adopted annexation agreement between the City of Urbana and the developer of the six-lot Wildberry Acres Subdivision (See Exhibit C: Ordinance No. 9394-89, adopted April 18, 1994). Should the annexation of the subject property be approved, the effective date of the annexation would be January 31, 2014 at noon.

In an effort to enforce the 1994 Ordinance, the City's Legal staff have filed three suits (including one against Ms. Hamilton) and three additional suits remain to be filed if the owners refuse to sign annexation petitions. At the December 9, 2013 Committee meeting, the petitioner stated that she was filing the petition unwillingly in order to avoid legal action by the City. Other owners of the six-lot subdivision also noted their opposition to annexation. Among the reasons given were the anticipated increase in taxes, the lack of knowledge of the agreement on some property owner's parts, and the lack of sanitary sewer service to the site. City Council discussed a number of options and asked staff to look into the history of the agreement and the potential impact of annexing or not annexing.

### **Background**

Edwin and Marylin Buxton, developers of Wildberry Acres Subdivision, voluntarily entered into an annexation agreement with the City in April 1994, shortly following the city's approval of the six-lot subdivision in December 1993. The annexation agreement encompasses 5.54 acres and is located to the northeast of the corporate limits of the City of Urbana, on the north side of Interstate 74. According to a December 16, 1993 Memorandum to City Council from April

Getchius, as Secretary of the Urbana Plan Commission, the Buxton's had agreed to sign an annexation agreement even though they would not be connecting to a sanitary sewer.

According to an April 13, 1994 Council memorandum from April Getchius, the Annexation Agreement was recommended for approval because of its consistency with the intent of the intergovernmental agreements pertaining to annexation and with the goals of the 1982 Comprehensive Plan and the 1993 Extraterritorial Jurisdictional Area Plan, which pertained at the time. Among the policies of the 1982 Comprehensive Plan, was the following:

*Policy 5.131 Encourage new residential development to occur contiguous to existing development and within municipal boundaries **or in areas that can be annexed.*** [Emphasis added].

According to the Annexation Agreement, the obligation to annex shall be included in any sales contracts for land within the Tract and will constitute an obligation upon subsequent owners to annex in the City of Urbana. The provision governing annexation and future obligations shall be included in covenants and shall run with the land. The City was further obligated under the terms of the Agreement to annex said Tract. The annexation agreement was duly recorded by the Champaign County Recorder and should appear as part of due diligence for any real estate transaction. Staff has contacted the Buxton's to ask to receive copies of the original sales contracts, but they are no longer in possession of the documents.

As discussed in the previous memorandum, a number of years have intervened since the execution of the annexation agreement due to complications related to determining contiguity to the City limits. Community Development and Legal staff have been working over the past several months to contact the property owners in an effort to complete the annexations. An informational meeting on the annexations was held on September 11, 2013, but was attended only by the Funkhousers (3101 E. Anthony Drive) and by Mary Lowry (3009 E. Anthony Drive). Sandra Hamilton (2911 East Anthony Drive) is the only property owner who has submitted an annexation petition to the City for consideration. Based upon the latest analysis by the Legal Division and the City Surveyor, the remaining five properties are also eligible for annexation at this time but have not yet submitted annexation petitions. The City legal department is in the process of filing legal complaints against these properties in order to compel them to comply with the provisions of the 1994 Agreement.

## **Discussion**

Annexation of adjacent developed and developing properties has been an important policy and practice of the City of Urbana for several years to ensure effective and efficient provision of urban services and creation of logical city boundaries that are able to grow in a compact and contiguous manner. Annexation policy consistent with the Wildberry Acres Subdivision agreement was promoted by the City's 1982 Comprehensive Plan, 1992 Intergovernmental Agreement with the Urbana and Champaign Sanitary District, City of Champaign, and Village of Savoy, and in the 1993 Extra-Territorial Jurisdictional Area Plan. Pursuant to these plans and policies, City legal and planning staff prepared a detailed Annexation Policy and Procedures Manual, which is periodically updated and used by staff on a day-to-day basis.

The 2005 Comprehensive Plan also addresses annexation policy in the following goals and objectives:

*Goal 15.0 Encourage compact, contiguous and sustainable growth patterns*

*Objectives*

*15.3 Pursue annexation strategies that promote orderly development.*

*15.4 Annex unincorporated areas that have been previously developed at urban densities.*

*Goal 28.0 Develop a diversified and broad, stable tax base*

*28.2 Promote appropriate development opportunities through annexation, development agreements, and, where appropriate, economic incentives.*

The 2005 Urbana Comprehensive Plan identifies the future land use for the Wildberry Acres Subdivision, including the subject property as “Rural Residential.” The Wildberry Acres subdivision, including the property to be annexed, is currently zoned County AG-2, Agricultural, and would automatically convert to City AG, Agriculture District, upon annexation. This proposed zoning would be consistent with the single family residential use of the property and with the future land use designation of the subject property.

Application of the City’s annexation policies and procedures and follow-up on executed annexation agreements has been consistently pursued by the City at least since it first brought its planning staff in-house in around 1989 (planning services were previously provided under contract by the Regional Planning Commission). Among the significant developed residential areas that have been brought into the city under the terms of previously executed annexation agreements are Beringer Commons, Country Squire, portions of Timber Hills, Somerset, and portions of Scottswood. The tax base and territorial limits of the City would be significantly reduced if it had not been able to follow up on these previous agreements, even in the face of opposition. (Refer to Figure K on page 45 of the Capital Improvement Plan for a reference map of recent annexations <http://urbanainllinois.us/sites/default/files/attachments/2012.pdf> )

**Fiscal Impacts**

Estimates of the property tax changes on the subject property as well as the other five properties in the subdivision have been prepared and provided to the property owners in a follow-up mailing on September 20, 2013. The annual taxes for 2911 Anthony Drive are estimated to increase from \$4,338.46 to \$5,448.89, a difference of \$1,110.43. Of this increase, \$787.93 would go to the City of Urbana, \$588.19 to the Urbana Park District, \$125.84 to Cunningham Township, and \$67.93 to Public Health. The other taxing bodies, including Champaign County, Forest Preserve District, Parkland College, Urbana Schools, and Mass Transit are already receiving taxes from these properties.

For the six properties combined, an additional annual total increase of the following amounts would go to these taxing agencies:

<b>Taxing Body</b>	<b>Increased Annual Taxes from Wildberry Acres</b>
City of Urbana	<b>\$3,605</b>
Urbana Park District	\$2,691

Cunningham Township	\$ 576
CU Public Health	\$ 309
<b>TOTAL</b>	<b>\$7,181</b>

## Options

At the meeting, City Council members discussed a variety of options, including proceeding with the annexation petition and continuing to pursue legal action against the remaining property owners; denying the annexation petition and dropping further enforcement of the agreement; negotiating with property owners to extend the term of the annexation agreement; negotiating with property owners to amend the terms of the annexation agreement, such as rebating the City's portion of property taxes or not annexing until such time as sanitary sewers are extended to the site. The property owners attended the meeting expressed interest in renegotiating the terms of the agreement, so that annexation would not occur until additional services are made available.

## Recommendation

Staff understands that Wildberry Acres is a difficult annexation case. The property is relatively remote from the core of the city and does not have either sanitary sewer or Illinois American water services. The agreement was executed almost 20 years ago and much time has elapsed from the original intentions of the city and developer due to complications related to the legal contiguity of the property and other issues. As in the majority of after-the-fact annexations that are undertaken by the city, property owners are not in favor of the attendant increase in property taxes and are in opposition to the annexation.

**Nonetheless, City staff continues to recommend that the City Council adopt the attached Ordinance annexing 2911 E. Anthony Drive into the City of Urbana, in accordance with the terms of Ordinance No. 9394-89 and that the City Council direct staff to continue to pursue legal action against the remaining property owners.**

Staff makes this recommendation because it is consistent with the City's long-standing plans and policies and with its efforts on other after-the-fact residential annexations. The annexation agreement was entered into explicitly without reliance on the provision of sanitary sewer service and it is clear in the agreement that the obligation to annex shall succeed to subsequent property owners. The City has delayed annexation of the property for a number of years, due to issues related to its contiguity, which have now been resolved. In this sense, the property owners have not had to bear the burden of additional taxes during this period of delay.

Staff also believe that the city has a fiscal responsibility to the taxpayers and to the other affected units of government to follow the ordinance and its policies. Not following up on the agreement, would cost the affected tax bodies \$7,181 per year, in perpetuity. Of this amount, \$4,181 would be borne by the City of Urbana and the Cunningham Township, for which the City Council also serves as a governing body. Extension of the term of the agreement for an additional ten years, as suggested by some, would result in a fiscal impact of \$41,810 on the City/Township and \$26,910 on the Urbana Park District.

Renegotiation of the terms of the agreement to rebate the City's portion of the tax bill is not recommended because such rebates are only done in cases where development has not yet occurred but where a property owner is willing to annex in advance of development. The Wildberry Acres Subdivision is already fully developed.

Renegotiation of the provisions of the agreement so that the properties are only annexed upon provision of services, such as sanitary sewer extension is also not recommended. The lack of sewers was known at the time of the agreement and there was no expectation or quid pro quo that such services would be provided. Further, there are no short or mid-range plans to extend sewers to this area. At such time as sewers are extended to serve other properties in the vicinity, it is unlikely that all of the property owners would be willing to bear the additional cost of extending their individual services to the public sewers.

Renegotiation of any of the terms of the agreement would also be difficult from a practical standpoint. Over the past several months, City staff have undertaken to contact, inform and engage the property owners on the annexation process with little success. It is hard to conceive that a process of renegotiation would go smoothly with all of the property owners or that the necessary contacts would be facilitated. Currently, the City's planning staff is at operating at a reduced capacity, and entering into a renegotiating process could affect staff's ability to keep up with other ongoing planning and development cases. However, if the Council were to identify this as a priority, staff would take the necessary steps to get the job done.

In summary, Staff recommends that the Committee of the Whole forward this petition and ordinance to the January 21, 2014 City Council meeting with a recommendation for approval. Annexation would become effective on January 31, 2014 at noon.

Attachments:     Draft Ordinance to Annex & Plat  
                      Exhibit A:   Annexation Location Map  
                      Exhibit B:   Annexation Petition submitted by the property owner  
                      Exhibit C:   Wildberry Acres Annexation Agreement

cc:                Sandra Hamilton, 2911 East Anthony Drive  
                      Other affected property owners  
                      John Hall, Champaign County Planning and Zoning Department  
                      Vicki Mayes, Urbana Park District  
                      Michelle Mayol, Urbana Township  
                      Julie Pryde, CU Public Health District

**ORDINANCE NO. 2013-12-106**

**AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE CITY OF URBANA**

(2911 East Anthony Drive / Sandra Hamilton)

WHEREAS, the hereinafter described territory is situated in unincorporated territory adjacent to and contiguous to the City of Urbana, Illinois, and is part of the Carroll Fire Protection District, and includes certain territory within Urbana Township; and

WHEREAS, a 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 19, 2013 stating that this Ordinance would be voted upon at the regular meeting of this Council at 7:00 p.m., Monday, December 16, 2013; and

WHEREAS, the City Council continued consideration of this case until their Committee meeting of January 13, 2014 for final action on January 21, 2014; and

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

WHEREAS, the City Council passed Ordinance No. 9394-89 on April 18, 1994, approving and authorizing the execution of annexation agreement pertaining to Wildberry Acres Subdivision; and

WHEREAS, the territory to be annexed by this Ordinance in Wildberry Acres Subdivision is presently located within Champaign County's AG-1, Agricultural Zoning District and upon annexation will be directly converted to City AG, Agriculture Zoning District; and

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

WHEREAS, the majority of the Corporate Authorities 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.

NOW, THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE CITY OF URBANA, ILLINOIS:

Section 1. That the following described real estate, be and the same are hereby annexed to the City of Urbana, Illinois:

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

Lot 6 in Wildberry Acres Subdivision, as per plat recorded in Plat Book "BB" at page 285, situated in Champaign County, Illinois.

Said annexation containing 0.949 acres, more or less, all situated in Urbana Township, Illinois, being commonly known for reference as 2911 East Anthony Drive and also identified as Parcel Index Number 30-21-10-200-039.

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 the Anthony Drive right-of-way lying adjacent to the herein annexed tract, being more particularly described as follows:

Beginning at the northwest corner of Wildberry Acres Subdivision, as shown on a plat prepared by Edwin Dale Buxton, Illinois Professional Land Surveyor Number 1981, and recorded March 7, 1994 as Document Number 1994R06235 in the Office of the Recorder of Deeds, Champaign County, Illinois; thence, NORTH 00 DEGREES 38 MINUTES 18 SECONDS WEST, along the northerly extension of the westerly line of said Wildberry Acres Subdivision, a distance of 6.28 feet, to the northerly right-of-way line of Anthony Drive; thence, NORTH 72 DEGREES 12 MINUTES 11 SECONDS EAST, along said northerly right-of-way line, said line being 6.00 feet northwesterly of and parallel with the northerly line of said Wildberry Acres Subdivision, a distance of 164.94 feet; thence, continuing along said northerly right-of-way line, along a curve to the right, having an arc length of 75.86 feet, a radius of 552.00 feet, a chord bearing of NORTH 76 DEGREES 08 MINUTES 24 SECONDS EAST, and a chord length of 75.80 feet, to the northerly extension of the easterly line of Lot 6 of said Wildberry Acres Subdivision; thence, SOUTH 01 DEGREES 07 MINUTES 20 SECONDS EAST, along said northerly extension of the easterly line of Lot 6, a distance of 26.50 feet, to the northerly line of said Wildberry Acres Subdivision; thence, continuing SOUTH 01 DEGREES 07 MINUTES 20 SECONDS EAST, along the northerly extension of the easterly line of said Lot 6, a distance of 35.00 feet to the northeasterly corner of said Lot 6; thence, SOUTH 88 DEGREES 52 MINUTES 37 SECONDS WEST, along the northerly line of said Lot 6, a distance of 38.27 feet; thence, continuing along the northerly line of said Lot 6, along a curve to the left, having an arc length of 84.02 feet, a radius

of 288.72 feet, a chord bearing of SOUTH 80 DEGREES 32 MINUTES 24 SECONDS WEST and a chord length of 83.73 feet; thence, continuing along the northerly line of Lot 6, SOUTH 72 DEGREES 12 MINUTES 11 SECONDS WEST, a distance of 116.07 feet, to the northwest corner of said Lot 6; thence, NORTH 00 DEGREES 38 MINUTES 18 SECONDS WEST, along the westerly line of said Wildberry Acres Subdivision, a distance of 36.63 feet, to the point of beginning, having an area of 0.249 acres, more or less.

Also;

That portion of the Federal Aid Interstate 05 (Interstate 74) right-of-way lying adjacent to the herein annexed tract, containing 1.425 acres, more or less.

Said territory lies within the boundaries of the Carroll Fire Protection District and Urbana Township, and is contiguous to the City of Urbana, Illinois.

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

Section 6. The territory annexed herein is assigned to City of Urbana Ward 5.

Section 7. To avoid uncertainty regarding public safety responsibilities concerning the property herein annexed, this Ordinance shall take effect at noon on the 31<sup>st</sup> day of January, 2014 following its passage by the Urbana City Council.

PASSED by the Urbana Corporate Authorities this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

AYES:



NAYS:

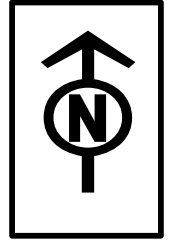
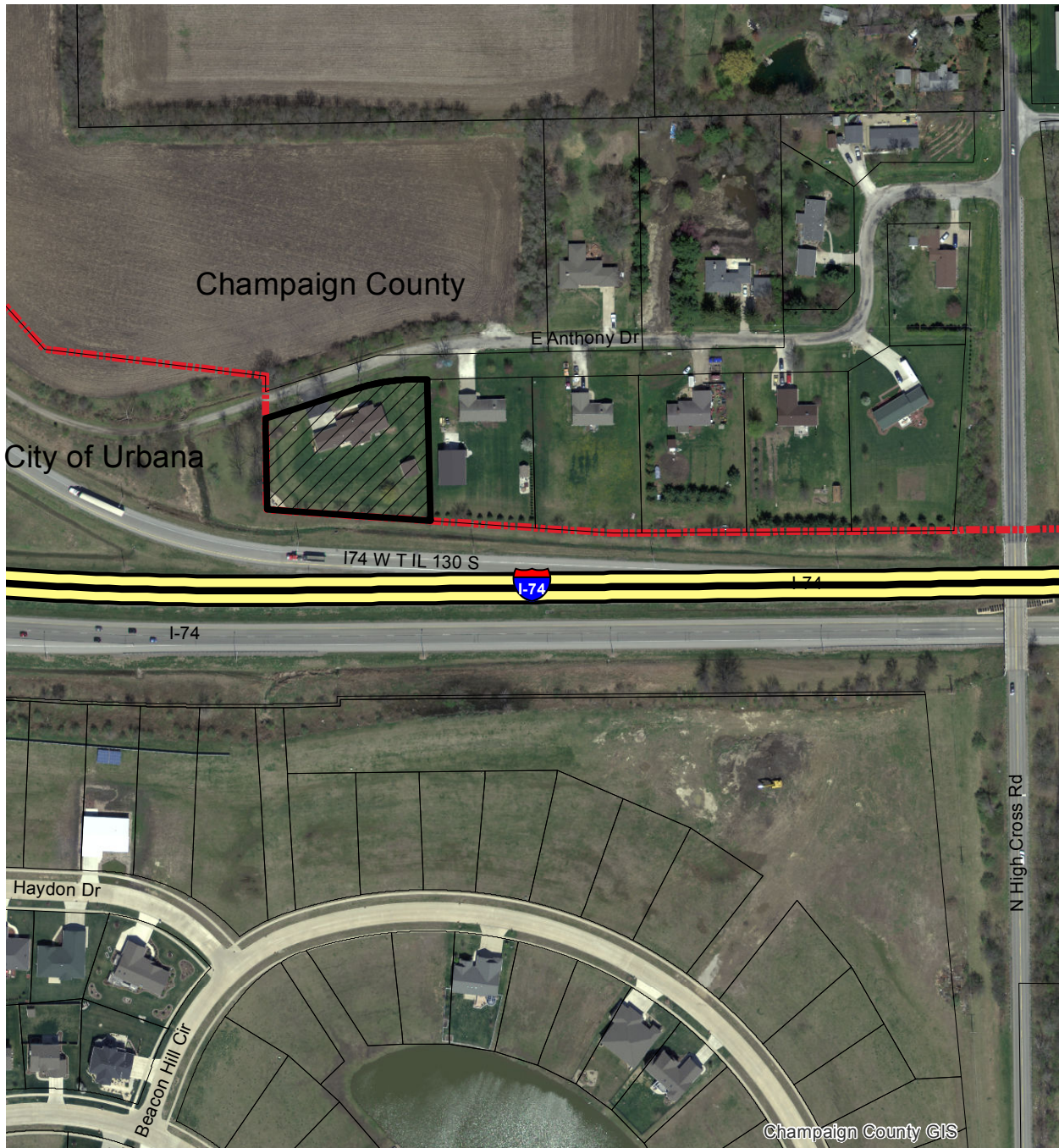
ABSTAINS:

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

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_,  
2014.

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

# Exhibit A: Location Map



200 100 0 200 400 600 Feet



Case: 2013-A-03  
Subject: Annexation Petition  
Location: 2911 East Anthony Drive, Urbana  
Petitioner: Sandra Hamilton



Subject Property



Urbana Corporate Limits

Prepared 11/14/2013 by Community Development Services - jme

**Petition for Annexation**  
**To**  
**THE CITY COUNCIL OF THE CITY OF URBANA**  
**CHAMPAIGN COUNTY, ILLINOIS**

The Petitioner, Sandra L. Hamilton, respectfully states under oath:

1. Petitioner is the sole owner of record of the following legally described tract of land, except any public right-of-way property to wit:

Lot 6 in Wildberry Acres Subdivision, as per Plat recorded in Plat Book "BB" at Page 285, situated in Champaign County, Illinois.

Parcel No. 30-21-10-200-039  
Address: 2911 Anthony Drive

2. Said Tract is not situated within the corporate limits of any municipality, but is contiguous to the City of Urbana, Illinois at the time of annexation.
3. At least fifty-one percent (51%) of all electors (registered voters) residing in said tract have signed this petition.

PETITIONER RESPECTFULLY REQUESTS:

1. That said Tract described above herein be annexed to the City of Urbana, Illinois pursuant to Section 5/7-1-8 of the Municipal Code of the State of Illinois, as amended (65 ILCS 5/7-1-8).
2. That said Tract be annexed in accordance with the terms of the annexation agreement passed by the Urbana City Council on April 18<sup>th</sup>, 1994 as Ordinance No. 93-94-89 and approved by the Mayor of the City of Urbana.

Dated this 5<sup>th</sup> day of NOVEMBER, 2013.

**Owner:**

Sandra Hamilton  
Sandra Hamilton

11/05/2013  
Date

Subscribed and sworn to before me this

5th day of November, 2013, A.D.

Diane Bucher  
Notary Public



The undersigned, being electors (registered voters) residing in said Tracts, respectfully state under oath:

1. I am currently registered to vote in Champaign County, Illinois and currently reside in said Tracts.
2. I have read and understand the petition to annex said Tracts and hereby and herewith join in the petition for annexation of said Tracts to the City of Urbana.

**ELECTORS:**

SIGNATURE

ADDRESS (PLEASE PRINT)

1. \_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

3. \_\_\_\_\_

\_\_\_\_\_

4. \_\_\_\_\_

\_\_\_\_\_

COUNTY OF CHAMPAIGN     )  
  ) SS  
STATE OF ILLINOIS        )

I, \_\_\_\_\_, Notary Public in the aforesaid County and State, do hereby certify that each of the persons who signed this petition personally appeared before me and acknowledged that they signed the said petition as their free and voluntary act for the uses and purposes set forth therein.

Notary Public Seal

My Commission expires the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

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570  
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270

EXHIBIT C

DOC # \_\_\_\_\_  
CHAMPAIGN COUNTY, ILL

CLERK'S CERTIFICATE

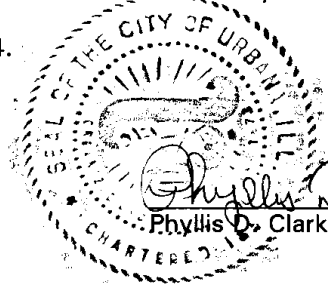
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*Neomi D. Jakobson*  
RECORDER

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF CHAMPAIGN        )

I, Phyllis D. Clark, City Clerk of the City of Urbana, Illinois, and keeper of the records, files and seal of said City, do hereby certify that the foregoing is a true and exact copy of an ordinance entitled, "AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT (Edwin and Marilyn Buxton)" adopted by the City Council of the City of Urbana, Illinois, on the 18th day of April, A.D. 1994, as appears in the records and files in my office remaining.

Given under my hand and seal of said City of Urbana, Illinois, this 20<sup>th</sup> day of May, A.D. 1994.

 *Phyllis D. Clark*  
Phyllis D. Clark, City Clerk

Return to:  
*Phyllis D. Clark*  
400 S. Vine  
Urbana, IL 61801

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

**Edwin and Marilyn Buxton**

WHEREAS, an Annexation Agreement between the City of Urbana, Illinois and Edwin and Marilyn Buxton has been submitted for the Urbana City Council's consideration, a copy of which is attached; and

WHEREAS, said agreement governs tract totalling approximately 5.54 acres located immediately north of Interstate 74 and west of High Cross Road and said tract is legally described as follows:

A part of the south 1/2 of the south 1/2 of the northeast 1/4 of Section 10. Township 19 north, Range 9 east of the third principal meridian, as shown on the subdivision plat of Wildberry Acres, prepared by Edwin D. Buxton, Illinois Professional Land Surveyor #1981, and recorded in Plat Book 1950 at page 0442, in the Office of the Recorder, Champaign County, Illinois, being described as follows:

Commencing at a chiseled "x" survey monument found at the southeast corner of the northeast 1/4 of Section 10, Township 19 north, Range 9 east of the third principal meridian, Champaign County Illinois; thence north 00° 18'03" west, as referenced from an Illinois Department of Transportation right-of-way survey for federal aid Interstate Route 808 (Illinois Route 130) dated August 20, 1985, along the east line of the northeast 1/4 of said Section 10, a distance of 330.82 feet to an iron pipe survey monument found at the northeast corner of the south 1/2 of the south 1/2 of the southeast 1/4 of the northeast 1/4 of said section 10; thence south 88°52'37" west along the north line of the south 1/2 of the south 1/2 of the southeast 1/4 of the northeast 1/4 of said Section 10. A distance of 60,000 feet to an iron pipe survey monument found on the westerly right-of-way line of High Cross Road (Township Road 1600E) for the point of beginning; thence south 03° 22'44" west along the westerly right-of-way line of said High Cross Township Road (1600E). A distance of 266.42 feet to the northerly right-of-way line of federal aid Interstate Route 05 (Interstate Route 74) to an iron pipe survey monument set; thence south 89°21'42" west along the northerly right-of-way line of said federal aid Interstate Route 05 (Interstate Route 74). A distance of 485.01 feet to a chiseled "x" survey monument found on an existing concrete right-of-way marker; thence north 86° 01'36" west along the northerly right-of-way line of said federal aid Interstate Route 05 (Interstate Route 74). A distance of 497.51 feet to an iron pipe survey monument found at a jog in the northerly right-of-way line of said federal aid Interstate Route 05 (Interstate Route 74); thence north 0° 38'18" west

along the jog in the northerly right-of-way line of said federal aid Interstate Route 05 (Interstate Route 74). A distance of 173.50 feet to an iron pipe survey monument found on the north side of Anthony Drive; thence north 72° 12'11" east along said Anthony Drive. A distance of 152.70 feet to an iron pipe survey monument found on the north line of the south 1/2 of the south 1/2 of the southeast 1/4 of the northeast 1/4 of said Section 10; thence north 88° 52'37" east along the north line of the south 1/2 of the south 1/2 of the southeast 1/4 of the northeast 1/4 of said Section 10. A distance of 585.71 feet to an iron pipe survey monument found on the west line of an Illinois Department of Transportation right-of way acquisition for Anthony Drive; thence south 01° 07'29" east along the southerly right-of-way of said Anthony Drive, a distance of 15.00 feet to an iron pipe survey monument found; thence south 46° 07'29" east along the southerly right-of-way line of said Anthony Drive, a distance of 28.28 feet to an iron pipe survey monument found; thence north 88° 52'31" east along the southerly right-of-way line of said Anthony Drive. A distance of 80.00 feet to an iron pipe survey monument found; thence north 58° 37'31" east along the southerly right-of-way line of said Anthony Drive, distance of 69.46 feet to an iron pipe survey monument found on the north line of the south 1/2 of the south 1/2 of the southeast 1/4 of the northeast 1/4 of said Section 10; thence north 88° 52'37" east along the north line of the south 1/2 of the south 1/2 of the southeast 1/4 of the northeast 1/4 of said section 10. A distance of 108.00 feet to the point of beginning, all situated in Champaign County, Illinois. Said tract containing 5.544 acres, more or less.

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Said parcel containing 5.54 Acres, more or less, all situated in Champaign County, Illinois.

WHEREAS, the proposed Annexation Agreement is in conformance with the goals and objectives of the City of Urbana's Official Comprehensive Plan; and

WHEREAS, after due and proper publication, the Urbana City Council held a public hearing on April 18, 1994 to consider said Annexation Agreement.

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed Annexation Agreement will not negatively impact the City of Urbana and would be in the best interests of the City of Urbana and its citizens if it is approved subject to the condition outlined by the Urbana Plan Commission.

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

Section 1. That the Annexation Agreement between the City of Urbana, Illinois and Edwin and Marilyn Buxton, a copy of which is attached 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 hereby authorized to attest to said execution of said Annexation Agreement, for and on behalf of the City of Urbana, Illinois.

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Section 3. The City Clerk is directed to record a certified copy of this Ordinance and the Annexation Agreement herein approved, as amended, with the Recorder of Deeds of Champaign County, Illinois.

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

PASSED by the City Council on this 18th day of April, 1994.

AYES: Hayes, Patt, Pollock, Ryan, Singer, Taylor and Mayor Satterthwaite

NAYS: None

ABSTAINED: None

Phyllis D. Clark  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 27<sup>th</sup> day of April, 1994.

Tod Satterthwaite  
Tod Satterthwaite, Mayor



ANNEXATION AGREEMENT

EXHIBIT C

(Edwin and Marilyn Buxton)

THIS AGREEMENT is made and entered into by and between the City of Urbana, Illinois (hereinafter sometimes referred to collectively as the "Corporate Authorities" or the "City") and Edwin and Marilyn Buxton (hereinafter referred to as the "Owners"). The effective date of this Agreement shall be the date the Agreement is recorded in the Office of the Champaign County Recorder, as set forth below in Article III, Section 5.

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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, pursuant to notice, as required by statute, the Corporate Authorities have held a proper public hearing on this Annexation Agreement on March 30, 1994; and

WHEREAS, Edwin and Marilyn Buxton are the Owners of Record of a certain 5.54 acre parcel of real estate located north of Interstate 74, south of Anthony Drive and west of High Cross Road and having tax parcel number 30-21-10-100-002, the legal description of which real estate is set forth below and in Exhibit A attached hereto.

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

WHEREAS, although the Tracts are not yet contiguous to the City of Urbana, said Owners, in order to best utilize their property, find it desirable to annex the Tracts to the City of Urbana when said Tracts become contiguous to the City, pursuant to, and as provided for in this Annexation Agreement; and

WHEREAS, the City and the Owners find it necessary and desirable that the Tract be annexed to the City with a zoning classification of AG Agriculture, under the terms and provisions of the Urbana City Code of Ordinances, as amended, and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Corporate Authorities find annexation of the Tracts as described herein reflects the goals, objectives and policies set forth in the City's 1982 Urbana Comprehensive Plan, as amended from time to time; and

WHEREAS, such annexation will ensure that the City of Urbana will receive real estate taxes and other revenues and will enable the City to continue to enhance its tax base; 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:

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Section 1: Owners represent that they are the sole record owners of the Tract described in Exhibit A and that it shall, within thirty (30) days of the property becoming contiguous to the Urbana City limits cause Tract to be annexed to the City of Urbana by filing a legally sufficient annexation petition all in accordance with the Illinois Statutes and shall, until annexation of Tract described above occurs, require that any persons intending to reside on Tract described above, prior to residing thereon, to agree to join in and consent to any petition for annexation of such Tract.

Section 2. The Owners shall take no action or omit to take action during the term of this Agreement which action or omission, as applied to the Tract, would be a breach of this Agreement, without first procuring a written amendment to this Agreement duly executed by both the Owners and the City.

Section 3. The Owners agree and hereby stipulate that the City, by its approval, execution or delivery of this Agreement does not in any way relinquish or waive any authority it may have to annex the Tracts in the absence of this Agreement.

Section 4. The Owners agree to submit a subdivision plat in a form suitable to the City and record an approved final subdivision plat for the Tract in accordance with Chapter 21 of the City's Code of Ordinances prior to any further development of the tract.

Section 5. The Owners agree to cause all development and construction on said Tract to be in conformance with all City codes, ordinances, orders or regulations in effect at the time of annexation, except as otherwise stipulated herein.

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

EXHIBIT C

The Corporate Authorities agree to the following provisions:

**Section 1.** The Corporate Authorities agree to expeditiously 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. The Corporate Authorities further agree that this section governing annexation shall be included in any sales contracts for land within the Tract and will constitute an obligation upon subsequent owners to annex into the City of Urbana. This provision governing annexation and future obligations shall be included in covenants and shall run with the land. The Corporate Authorities agree that nothing in this Agreement shall preclude the voluntary annexation of property by subsequent property owners.

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**Section 2.** The Corporate Authorities agree that the City will take any action necessary to zone the Tract to AG, Agriculture in accordance with the provision contained with the City of Urbana Zoning Ordinance, subject to the terms and conditions set forth in this agreement.

**Section 3.** The Corporate Authorities agree that the City shall take no action or omit to take action during the term of this Agreement which act or omission as applied to the Tracts would be a breach of this Agreement without first procuring a written amendment to this Agreement duly executed by both the Owners and the City.

**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 hereof as provided by the Illinois State Statutes. 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.

**Section 2. Covenant running with land** -- The terms of this Agreement constitute a covenant running with the land and are hereby expressly made binding upon all heirs, grantees, lessees, executors, assigns and successors in interest of the Owners as to all or any part of the Tracts, and are further expressly made binding upon said City and the duly elected or appointed successors in office of its Corporate Authorities.

**Section 3. Enforcement** -- The Owners and Corporate Authorities agree and hereby stipulate that any party to this Agreement may, by civil action, mandamus, action for writ of injunction or other proceeding, enforce and compel performance of this Agreement or declare this Agreement null and void in addition to other remedies available. Upon breach by the Owners, the City may refuse the issuance of any permits or other approvals or authorizations relating to development of the Tract.

**Section 4. 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 without the invalid provision.

**Section 5. 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.

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**IN WITNESS WHEREOF**, the Corporate Authorities and Owners 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**

Tod Satterthwaite  
Tod Satterthwaite, Mayor

4/27/94  
Date

Date \_\_\_\_\_

**OWNER:**

Edwin Burton

**OWNER:**

Marilyn S. Burton

**ATTEST:**

Phyllis D. Clark  
Phyllis D. Clark  
CITY CLERK

April 27, 1994  
Date

**ATTEST:**  
" OFFICIAL SEAL "  
MICKI RAPPE  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 8/25/98  
Micki Rappe  
Notary Public

1-24-94  
Date

## EXHIBIT "A"

A PART OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 10. TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, AS SHOWN ON THE SUBDIVISION PLAT OF WILDBERRY ACRES, PREPARED BY EDWIN D. BUXTON, ILLINOIS PROFESSIONAL LAND SURVEYOR #1981, AND RECORDED IN PLAT BOOK 1950 AT PAGE 0442, IN THE OFFICE OF THE RECORDER, CHAMPAIGN COUNTY, ILLINOIS, BEING DESCRIBED AS FOLLOWS:

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COMMENCING AT A CHISELED "X" SURVEY MONUMENT FOUND AT THE SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY ILLINOIS; THENCE NORTH  $00^{\circ} 18'03''$  WEST, AS REFERENCED FROM AN ILLINOIS DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY SURVEY FOR FEDERAL AID INTERSTATE ROUTE 808 (ILLINOIS ROUTE 130) DATED AUGUST 20, 1985, ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 10, A DISTANCE OF 330.82 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND AT THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 10; THENCE SOUTH  $88^{\circ}52'37''$  WEST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 10. A DISTANCE OF 60,000 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND ON THE WESTERLY RIGHT-OF-WAY LINE OF HIGH CROSS ROAD (TOWNSHIP ROAD 1600E) FOR THE POINT OF BEGINNING; THENCE SOUTH  $03^{\circ} 22'44''$  WEST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID HIGH CROSS TOWNSHIP ROAD (1600E). A DISTANCE OF 266.42 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF FEDERAL AID INTERSTATE ROUTE 05 (INTERSTATE ROUTE 74) TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH  $89^{\circ}21'42''$  WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID FEDERAL AID INTERSTATE ROUTE 05 (INTERSTATE ROUTE 74). A DISTANCE OF 485.01 FEET TO A CHISELED "X" SURVEY MONUMENT FOUND ON AN EXISTING CONCRETE RIGHT-OF-WAY MARKER; THENCE NORTH  $86^{\circ} 01'36''$  WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID FEDERAL AID INTERSTATE ROUTE 05 (INTERSTATE ROUTE 74). A DISTANCE OF 497.51 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND AT A JOG IN THE NORTHERLY RIGHT-OF-WAY LINE OF SAID FEDERAL AID INTERSTATE ROUTE 05 (INTERSTATE ROUTE 74); THENCE NORTH  $0^{\circ} 38'18''$  WEST ALONG THE JOG IN THE NORTHERLY RIGHT-OF-WAY LINE OF SAID FEDERAL AID INTERSTATE ROUTE 05 (INTERSTATE ROUTE 74). A DISTANCE OF 173.50 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND ON THE NORTH SIDE OF ANTHONY DRIVE; THENCE NORTH  $72^{\circ} 12'11''$  EAST ALONG SAID ANTHONY DRIVE. A DISTANCE OF 152.70 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND ON THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 10; THENCE NORTH  $88^{\circ} 52'37''$  EAST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 10. A DISTANCE OF 585.71 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND ON THE WEST LINE OF AN ILLINOIS DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY ACQUISITION FOR ANTHONY DRIVE; THENCE SOUTH  $01^{\circ} 07'29''$  EAST ALONG THE SOUTHERLY RIGHT-OF-WAY OF SAID ANTHONY DRIVE, A DISTANCE OF 15.00 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND; THENCE SOUTH  $46^{\circ} 07'29''$  EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ANTHONY DRIVE, A DISTANCE OF 28.28 FEET TO AN IRON PIPE SURVEY MONUMENT

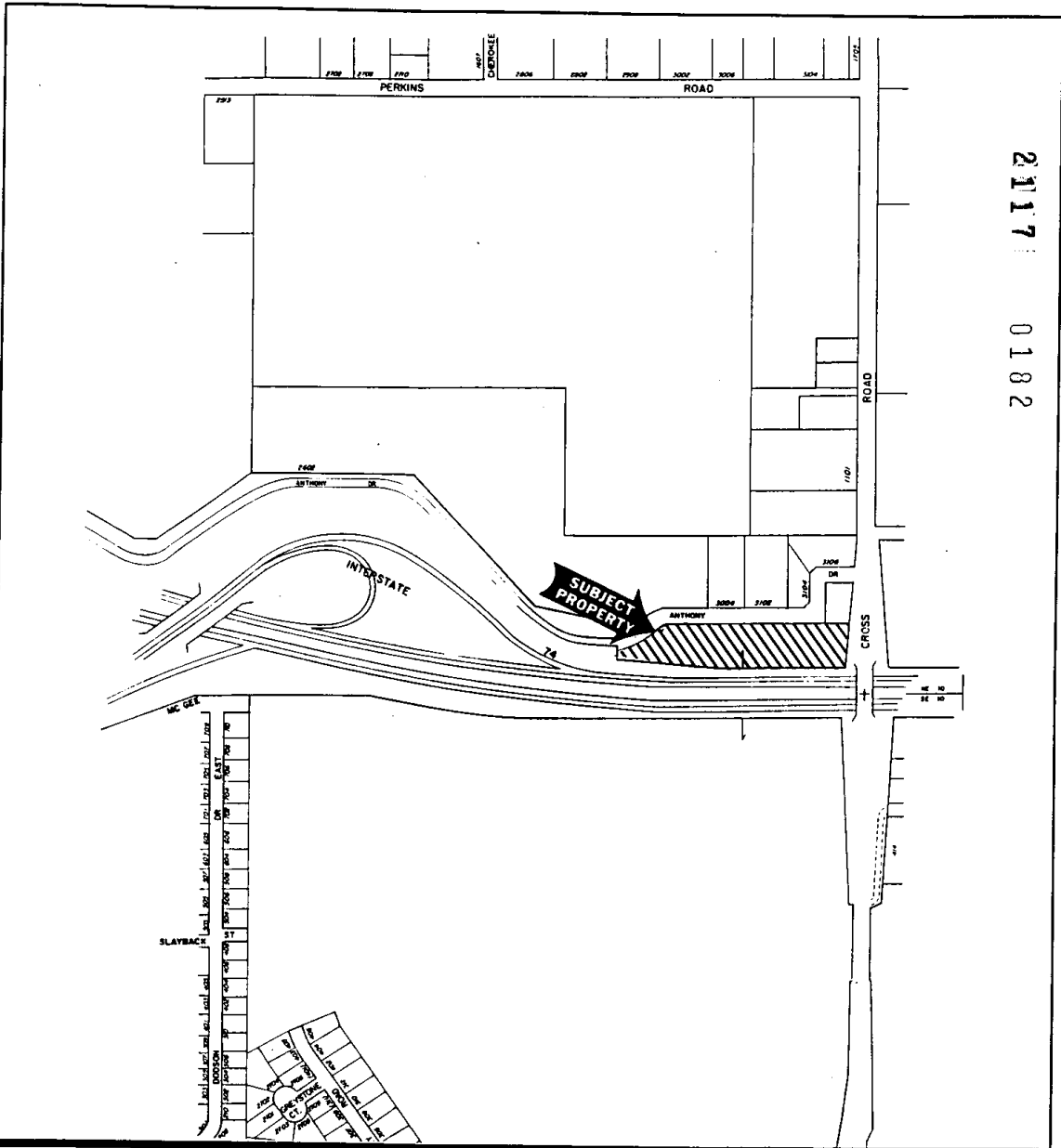
FOUND; THENCE NORTH 88° 52'31" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ANTHONY DRIVE. A DISTANCE OF 80.00 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND; THENCE NORTH 58° 37'31" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ANTHONY DRIVE, DISTANCE OF 69.46 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND ON THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 10; THENCE NORTH 88° 52'37" EAST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 10. A DISTANCE OF 108.00 FEET TO THE POINT OF BEGINNING, ALL SITUATED IN CHAMPAIGN COUNTY, ILLINOIS. SAID TRACT CONTAINING 5.544 ACRES, MORE OR LESS.

(LEGALS/1518CAP.LGL)

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Exhibit B

EXHIBIT C




2117 0182

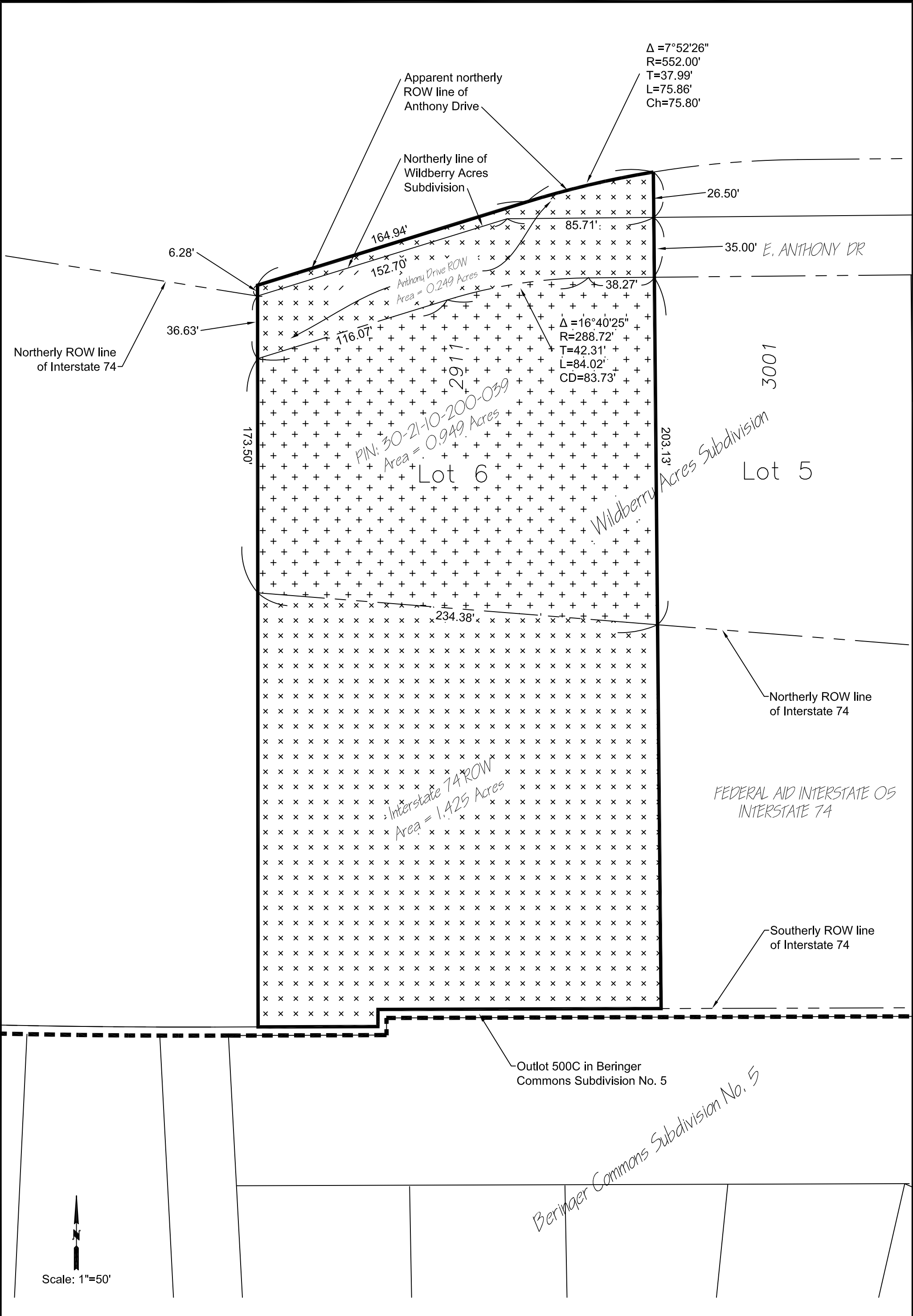
**CITY OF URBANA**  
**COMMUNITY DEVELOPMENT SERVICES**  
**PLANNING DIVISION**



**TITLE:** Buxton Annexation Agreement,  
 Wildberry Acres Subdivision

**DATE:** April 18, 1994





$\Delta = 7^\circ 52' 26''$   
 $R = 552.00'$   
 $T = 37.99'$   
 $L = 75.86'$   
 $Ch = 75.80'$

Apparent northerly  
 ROW line of  
 Anthony Drive

Northerly line of  
 Wildberry Acres  
 Subdivision

26.50'

35.00' E. ANTHONY DR

6.28'

164.94'

85.71'

152.70'

Anthony Drive ROW  
 Area = 0.249 Acres

38.27'

36.63'

116.07'

$\Delta = 16^\circ 40' 25''$   
 $R = 288.72'$   
 $T = 42.31'$   
 $L = 84.02'$   
 $CD = 83.73'$

Northerly ROW line  
 of Interstate 74

173.50'

PIN: 30-21-10-200-039  
 Area = 0.949 Acres  
 Lot 6

203.13'

Wildberry Acres Subdivision

3001

Lot 5

234.38'

Northerly ROW line  
 of Interstate 74

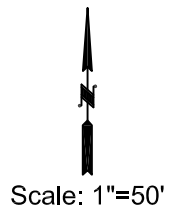
Interstate 74 ROW  
 Area = 1.425 Acres

FEDERAL AID INTERSTATE 05  
 INTERSTATE 74

Southerly ROW line  
 of Interstate 74

Outlot 500C in Beringer  
 Commons Subdivision No. 5

Beringer Commons Subdivision No. 5



MAP SHOWING AREA ANNEXED BY CITY ORDINANCE #2013-11-XXX  
 CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS  
 DATE: December XX, 2013

AREA OF ANNEXATION	
EXISTING CITY LIMITS	
NEW CITY LIMITS	
RIGHT OF WAY LINE	
PROPERTY ADDRESS	2702
LOT NUMBER	416

**ENGINEERING DIVISION**

CITY ENGINEER/PUBLIC WORKS DIRECTOR

DRAWN BY: B.W.F. 12/3/2013  
 CHECKED: W.R.G. 12/3/2013

Page 1 of 2



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

Lot 6 in Wildberry Acres Subdivision, as per plat recorded in Plat Book "BB" at page 285, situated in Champaign County, Illinois.

Said annexation containing 0.949 acres, more or less, all situated in Urbana Township, Illinois, being commonly known for reference as 2911 East Anthony Drive and also identified as Parcel Index Number 30-21-10-200-039.

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 the Anthony Drive right-of-way lying adjacent to the herein annexed tract, being more particularly described as follows:

Beginning at the northwest corner of Wildberry Acres Subdivision, as shown on a plat prepared by Edwin Dale Buxton, Illinois Professional Land Surveyor Number 1981, and recorded March 7, 1994 as Document Number 1994R06235 in the Office of the Recorder of Deeds, Champaign County, Illinois; thence, NORTH 00 DEGREES 38 MINUTES 18 SECONDS WEST, along the northerly extension of the westerly line of said Wildberry Acres Subdivision, a distance of 6.28 feet, to the northerly right-of-way line of Anthony Drive; thence, NORTH 72 DEGREES 12 MINUTES 11 SECONDS EAST, along said northerly right-of-way line, said line being 6.00 feet northwesterly of and parallel with the northerly line of said Wildberry Acres Subdivision, a distance of 164.94 feet; thence, continuing along said northerly right-of-way line, along a curve to the right, having an arc length of 75.86 feet, a radius of 552.00 feet, a chord bearing of NORTH 76 DEGREES 08 MINUTES 24 SECONDS EAST, and a chord length of 75.80 feet, to the northerly extension of the easterly line of Lot 6 of said Wildberry Acres Subdivision; thence, SOUTH 01 DEGREES 07 MINUTES 20 SECONDS EAST, along said northerly extension of the easterly line of Lot 6, a distance of 26.50 feet, to the northerly line of said Wildberry Acres Subdivision; thence, continuing SOUTH 01 DEGREES 07 MINUTES 20 SECONDS EAST, along the northerly extension of the easterly line of said Lot 6, a distance of 35.00 feet to the northeasterly corner of said Lot 6; thence, SOUTH 88 DEGREES 52 MINUTES 37 SECONDS WEST, along the northerly line of said Lot 6, a distance of 38.27 feet; thence, continuing along the northerly line of said Lot 6, along a curve to the left, having an arc length of 84.02 feet, a radius of 288.72 feet, a chord bearing of SOUTH 80 DEGREES 32 MINUTES 24 SECONDS WEST and a chord length of 83.73 feet; thence, continuing along the northerly line of Lot 6, SOUTH 72 DEGREES 12 MINUTES 11 SECONDS WEST, a distance of 116.07 feet, to the northwest corner of said Lot 6; thence, NORTH 00 DEGREES 38 MINUTES 18 SECONDS WEST, along the westerly line of said Wildberry Acres Subdivision, a distance of 36.63 feet, to the point of beginning, having an area of 0.249 acres, more or less.

Also;

That portion of the Federal Aid Interstate 05 (Interstate 74) right-of-way lying adjacent to the herein annexed tract, containing 1.425 acres, more or less.